



REPORT OF THE LAND REVENUE AND LAND TENURE COMMITTEE ORISSA



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ORISSA

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Report of the Land Revenue and Land Tenure Committee, Orissa

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CHAPTER I

Introductory

1. The Committee was appointed under the Appointment following Resolution No. 7533-R., dated the 15th of Committee November 1946 of the Orissa Government :— and Terms of reference.

“ The Government of Orissa have been pleased to appoint a Committee to recommend legislative and other measures for reforming the different systems of land revenue and land tenure that are in vogue in different parts of the Province with a view—

- (1) to make the incidence of land revenue or rent, as the case may be, as far as possible, uniform, equitable and elastic inasmuch as land revenue payable by the raiyat to Government in raiyatwari areas and rent payable to the landlord in non-raiyatwari areas as well as land revenue payable by landlords in different areas vary widely ;
- (2) to eliminate, as far as practicable, all intermediary interests that exist at present between the cultivators and the State ;
- (3) to prevent the fragmentation of agricultural holdings and to foster consolidation of holdings or creation of economic holdings ;
- (4) to make adequate provision for common lands for pasture and other communal purposes and for their proper administration, and generally—
- (5) to improve agricultural production and raise the standard of life of the cultivating classes.

While making its recommendations, the Committee should examine *inter alia* the report of the Bengal Land Revenue Commission (1940), the Madras Estates Land Act Committee (1933) and the Famine Enquiry Commission (1945).

- (6) In case the Committee feels called upon to recommend state acquisition of all intermediary interests between the cultivator and the Government, they should report on the financial and administrative implications of such acquisition.
- (7) The Committee shall also recommend interim measures for the improvement of the existing systems, so long as they continue, e.g., the enforcement of a standard of management specially in the matter of adequate maintenance of irrigation and protective works and laying an obligation on landlords to make an annual allocation of funds to be utilised for specific purposes of rural welfare.

The personnel of the Committee which will be fully representative will be announced later."

Personnel,

The Committee was originally constituted as follows :—

- (1) Sri Dinabandhu Sahu, M.A., B.L., M.L.A.
- (2) Sri Lokanath Misra, M.A., B.L., M.L.A.
- (3) Raja Bahadur Sri Ramchandra Mardaraj Deo, of Khallikote.
- (4) Sri Sailendra Narayan Bhanja Deo, M.L.A. (now Raja of Kanika).
- (5) Sri Uma Charan Patnaik, M.A., B.L., M.L.A.
- (6) Sri Sarangadhar Das, M.L.A.

- (7) Maulavi Muhammad Latifur Rahman, M.L.A.
- (8) Sri Kailash Chandra Mohanty, M.L.A.
- (9) Sri Sadasiba Tripathy, M.L.A.
- (10) Sri A. V. Subbarau, Advocate, Berhampur
- (11) Sri Bimal Krishna Pal, M.A., B.L., Advocate, Cuttack.
- (12) Sri Rajendra Panda, B.A., B.L., Chairman, District Board, Sambalpur.
- (13) Sri Girija Shankar Ray, M.A., B.L., Principal, Puri College.
- (14) The Revenue Commissioner, Orissa
- (15) Sri Rajakrushna Bose, M.L.A.

Sri Nabakrushna Chaudhuri, who was then the Revenue Minister, was appointed Chairman *ex officio* and Sri M. N. Guha, Deputy Magistrate and Deputy Collector, as Secretary. Subsequently there were certain changes which are noted below :—

Sri Nabakrushna Chaudhuri resigned from the Ministry in April 1948 but continued as Chairman under Government notification No. 5117-R., dated the 23rd April 1948.

Sri U. N. Rath was appointed Secretary in place of Sri M. N. Guha on the 22nd August 1947.

Sri Sadasiba Tripathy and Sri Rajakrushna Bose resigned from the Committee on their appointment as Ministers in August 1948. Sri Jagannath Misra and Sri Bhairab Chandra Mohanty, Members of Legislative Assembly, were appointed members in their places. Hon'ble Sri Tripathy and Sri Bose, however, continued to take active interest in the work of the Committee even after their resignation.

Sri Lakshminarayan Misra, M.L.A., was appointed a member of the Committee under Government Resolution No. 2591-R., dated the 7th April 1947.

Sri Kailash Chandra Mohanty, M.L.A. died during the tenure of the Committee as a result of an unfortunate motor accident.

Mr. Samuel Das, M.A., who had become an *ex officio* member of the Committee as the Revenue Commissioner continued to be a member under a special notification of the Government after he ceased to be the Revenue Commissioner.

Sri N. Senapati, I.C.S., was similarly reappointed a member of the Committee after he ceased to be an *ex officio* member as the Revenue Commissioner.

Sri P. C. Das, Secretary of the Revenue Department, though not a member of the Committee, was present in all its meetings on invitation and was closely associated with the deliberations of the Committee.

**Scope of the
Committee.**

2. The Committee was not an expert committee of any sort. It did not also consider itself competent to lay down the basic principles of agrarian reform for the Province. There was some guidance given to it in the matter of policy in the resolution of the Provincial Government quoted above but very fundamental questions of policy with regard to the lines of agrarian reform to be followed in the country as a whole remained to be decided at a high national level. Our Committee had felt that it would be very wrong and harmful if provinces were allowed to move in contrary directions merely because matters relating to land revenue and land tenures were in the Provincial list of the Constitution Act. An agrarian system could not be a closed system, for it must depend for its proper functioning and development on so many other factors of social and economic life which provinces did not and could not control. Agrarian reform in the provinces had, therefore, in the opinion of the

Committee, to be integrated with an overall social and economic programme for the whole country and it was only national leaders of the highest standing who could formulate such a programme. There was no such programme before the country when our Committee was appointed. It had, therefore, to labour under a real handicap and to feel its way depending upon the vague trend of national opinion which it could discern. A very high level Committee with Pandit Jawaharlal Nehru as Chairman was, however, appointed by the All-India Congress Committee in November 1947 to draw up an economic programme and the Committee submitted its report in January 1948. The Nehru Committee not only clarified the objectives towards which all reform and reconstruction in the social and economic fields should be directed but also sought to lay down the basic lines of reform in important sectors of the national life like agriculture, cottage industries, etc. Our Committee has accepted this report as an authoritative formulation of national policy and has tried to fill in the details and suggest practical measures to the Provincial Government for implementing its recommendation so far as they fall within the scope of our reference.

3. The Committee prepared with considerable care an elaborate questionnaire* and widely circulated it in the Province. As was intended, this questionnaire, besides eliciting helpful suggestions from several individuals and organisations, served the very necessary purpose of educating public opinion by placing the problem of land in its true perspective and laying bare all the issues that faced the Committee. The obsession of foreign domination which unfortunately persisted even after the achievement of independence did not allow public opinion in India to be fully alive to all the implications of the social and economic reforms, to clamour for which had formed part of the agitation against the British. The Committee received 194

Preparation and
circulation of
questionnaire

replies to the questionnaire in English and 497 in Oriya. A set of supplementary questions was subsequently circulated eliciting opinion of the political parties and organisations on the Sanyukta Hissadari system proposed to be introduced in the United Provinces and the following gentlemen were examined in this connection :—

- (1) Sri B. K. Ratho, Advocate, Berhampur
- (2) Kumar Sri Bidyadhar Sing Deo, Jeypore
- (3) Sri Gadadhar Dutta, Secretary, Utkal Provincial Congress Committee.
- (4) Sri Pareswar Mohanty, Advocate, Cuttack
- (5) Sri Narayan Pati, Convener, Kisan Sub-Committee, Socialist Party.
- (6) Sri Chakradhar Behera, Balasore
- (7) Sri Baidyanath Rath, M.L.A., Communist Party.
- (8) Sri Narayan Patra, M.L.A.
- (9) Sri Arakhita Nayak, Angul
- (10) Sri Biswanath Das, M.C.A.
- (11) Sri Surendra Kumar Bose Ray
- (12) Sri Benudhar Lenka

Interim recommendation.

4. The fact that the neighbouring provinces of Bihar and Madras had decided to bring in legislation for the purpose of merely abolishing zamindari without going into the question of the reform of the land system as a whole had its repercussions in this Province among different sections of the people. Majority of the members of the Committee considered it necessary to make an interim recommendation to the Government to take over the private estates after necessary legislation, pending the consideration of the other issues by the Committee. But as the Committee actually went into all the issues involved in the problem, it realised that it was not safe or politic to tackle the problem

piecemeal. The Chairman of the Committee and Hon'ble Sri Harekrushna Mahtab submitted at this stage notes * containing radical suggestions for deprovincialisation of land revenue and the setting up of local authorities for the management of lands and for carrying out functions of local Government, much more numerous and important than those of the existing local bodies. The Committee appointed on the 11th August 1948 a Sub-Committee consisting of the Chairman, the Revenue Commissioner, the Revenue Secretary, Sri S. Das, Sri D. Sahu and Sri S. N. Bhanj Deo and the Secretary to examine the proposals contained in these two notes and to report on the financial and administrative implications of any scheme of reforms that might be based on those proposals with any modifications considered necessary by the Sub-Committee. As the proposals were of a very wide character affecting all the important departments of Government, the Sub-Committee thought it proper and advisable to examine the following persons holding responsible posts under the Government :—

- (1) Sri B. C. Mukharji, Chief Secretary
- (2) Sri N. Mahanti, Additional Secretary, Finance.
- (3) Mr. S. Roy, Director of Public Instruction
- (4) Sri G. B. Singh, Director of Veterinary Services.
- (5) Dr. P. Parija, Director of Agriculture
- (6) Col. B. N. Hajra, Director of Health and Inspector-General of Prisons.
- (7) Sri B. S. Mahanti, District Magistrate, Dhenkanal.
- (8) Sri Gopinath Behera, District Magistrate, Ganjam.

The Sub-Committee submitted a scheme of reforms based on the two notes and the resolution of the Committee and some statements regarding its financial implications. The scheme was accepted by the main Committee with a few minor changes and it constituted the main recommendations of the Committee in an integrated form.

The arrange-
ment of the
Report.

5. In Chapter II we have made some general observations about our approach to the problem.

Chapter III contains the integrated scheme of reforms as finally recommended by the Committee.

The subsequent chapters deal with the different important features of the scheme and some supplementary recommendations.

Acknowledg-
ments.

6. We should like to place on record our gratefulness to Hon'ble Sri Harekrushna Mahtab, the Prime Minister of Orissa, for placing his personal views in a stimulating note and also for appearing before the Committee. The Committee was really much emboldened in formulating its proposals for the deprovincialisation of land revenue and the introduction of an integrated system of local Government and land management by the lead given by him in the matter.

We are also thankful to the many gentlemen who sent in replies to our questionnaire and particularly to those who appeared before the Committee for their valuable evidence.

Thanks are also due to the Secretary Sri U. N. Rath and his staff in the office and Sri R. N. Ghosh who acted as stenographer to the Chairman under trying conditions at Angul.

CHAPTER II

General Approach to the Problem

7. The basic principle that underlies an attempt at agrarian reform of the range and magnitude fore-shadowed in the Government resolution quoted in para. 1 is that, in the ultimate analysis, land belongs to the community and the community has always the right to regulate it in its own interest. In India this principle had always been accepted and the king or the local ruler had exercised this right as the representative of the community ; the fact that private property in land had been recognised was not in any way in derogation of the above principle ; because all private rights in land had always been held subject to it. Although, according to what might be termed the common law in India, before the British tried to put it in statutes and, in doing so, deformed it beyond repair, the cultivator had the right to occupy and use the land and nobody, not even the king, could turn him out of it, yet his right was subject to the condition that he observed the rules of good husbandry and discharged the king's dues ; and occasionally when the right of any intermediary between the cultivator and the ruler had been recognised, that right too had invariably been functional in character and unless the overlord had degenerated into a mercenary, the functions of the intermediary had ranged beyond the collection of the king's dues to the maintaining of standards of agriculture and in some cases to the maintaining of standards of social and religious services in his area.

8. Though the British Government had acted upon this very principle in all their legislative endeavours in India with regard to land, which often had the effect of extinguishing the ancient rights of millions of people, yet the principle itself receded to the background in the actual operation of the land systems set up by the British. It was only

in the early regulations that we find clear traces of the principle that the valuable rights enjoyed by the private proprietors of land were always related to, if not dependent upon, the discharge of certain duties and responsibilities towards the community—towards large bodies of people holding rights or interests subordinate to them as well as towards the State as a whole¹. Unfortunately there was no effective provision to enforce these responsibilities, nor did the British administrators evince much interest in enforcing them. What, however, they sought to do by a series of tenancy legislations was to declare more clearly the rights of the raiyats under the private proprietors and to provide for their adequate protection. These tenancy laws proved effective to a great extent in protecting the rights of raiyats as against private proprietors ; but,

¹ The following copy of a kabuliyat executed under the Permanent Settlement Regulations by Dhrubji Bhuvan Harichandan, Zamindar, Killah Sukinda is an illustration :—

I, Dhrubji Bhuvan Harichandan Mahapatter, Zamindar, Killa Sukinda, in the Province of Orissa, do hereby execute this kabuliyat out of my full and free consent, that having been appointed to hold the service of zamindar in the killa by Government, I will collect the rents, according to former rates, agreeably to the laws of the Government. That I will pay the annual revenue due to Government in instalments specified below without any excuse. That I will keep the raiyats prosperous and contented, and exert myself to improve the lands so that they will bring forth more crops than they did before. That I shall not allow an inch of cultivated land to fall waste. That I will never allow the growing of inferior crops in superior lands. That I will not be prodigal in my expense nor allow my raiyats to be so. That I will never grant any land in gift or jagir without a sanad of the Government. That I will keep a watchful eye over the boundaries of my zamindari. That I will vigilantly watch that no guns or swords, or any sort of offensive weapons, are manufactured in my estate. That there will never occur any thefts or murders within the same. Should any robbery occur, I will trace out the offenders, and recover the property stolen and send them over to the authorities. Accordingly, I do hereby execute this kabuliyat which will serve whenever it be required hereafter.

at the very same time, the principle that the community had an overriding right or interest over the rights of both the private proprietors and the raiyats, and for the matter of that, over all private rights in land, was thrown into the background. As a result, the whole controversy about agrarian reform in India was confined to a tussle between the relative rights of the landlord and the raiyat and the abolition of the zamindari system came to be regarded as the last word on the subject of such reforms. Much of the unwillingness and incapacity on the part of the public to appreciate the magnitude and the difficulty of the task before the reformer in this field is due to this fact. It was only during the last few years that the food crisis in India and the futile, though costly, attempts to increase food production in the country have forcibly brought home to all thinking people, as nothing else could do, that the needs and interests of the community must be the prime consideration in any scheme of agrarian reform. Looking at the whole problem from this angle, the questions that primarily concerned the Committee were not : " What additional rights the raiyats were going to get or what liabilities or responsibilities they were going to be relieved of as a result of the reforms ; " but were : " How the whole community, including the cultivating classes, was going to gain by the change ; what duties and responsibilities the raiyat should have towards the community after the elimination of all intermediaries between the State and himself and how to enforce those duties and responsibilities ". It could be easy enough to draw up an ideal land law defining clearly the duties and responsibilities as well as the rights of everybody concerned but the real difficulty lay in devising ample and effective measures and agencies both for enforcing the responsibilities and for securing the rights. The Committee had its biggest headache there and it can claim to have made some useful and original contribution in that regard.

Difficulties in
implementing
agrarian
reforms: the Need
for overhaul of
Administrative
machine

9. The Committee had to go over the whole range of problems covered by its terms of reference several times before it could arrive at final conclusions. Tentative decisions on several points had to be revised in order to adapt them to later decisions on more important issues. We had also to be very careful lest in our zeal for abstract principles of reform we ignored the realities of the situation,—economic and social factors which could not be controlled at will. The Committee was specially alive to the fact that the whole fabric of social and economic life in a predominantly agricultural country like ours had been closely adjusted, in many more ways than could be easily discerned, to the present land systems, even though they had been set up by the British in utter disregard of the common law of the country and of the interests of the people. Despite all the efforts of social and political workers, the vast bulk of the people were reconciled to the old order which they knew and were loathe to put up with the transitional difficulties or discomforts of a new and better order which they did not know. There is a Bengal saying which finds a ready echo in the hearts of our people, “*sukher cheye shanti bhalo*”, that is, “peace is better than happiness”. So though there was hardly any scope for discussion with regard to the principles or lines of reform which had been broadly indicated by the Provincial Government in their Resolution and clearly formulated by the Nehru Committee, the question how best to implement them in practice: what legislative and other measures were necessary for the purpose, remained to be fully considered and that involved consideration also of the problem of making the changeover to the new system and its working as smooth as possible. This inevitably led us to recommend a thorough overhaul of the administrative machinery of the Province. We were aware of our limitations while doing so, as there were only a few amongst us in the Committee who could claim to be experts on administration. Fortunately for us

we found ourselves fundamentally in agreement with what was perhaps the soundest expert advice available in India, the report of the Bengal Administration Committee, 1945. There have been great political changes in the country since 1945 but the administrative apparatus which was condemned then by Sir Archibald Rowlands and his colleagues still stands in every province to remind us of "monsters with great in defensive powers developed at the expense of movement and intellect," as one American author had aptly put it while writing about the departmental structures in the United States.

10. Speaking in 1945 about the work to be done in Bengal, both now and in the foreseeable future and about the existing administrative machinery, the Rowlands Committee stressed need for Agrarian reforms to make administrative reforms effective.

"What is, however, clear is that the main emphasis in the activities of Government henceforward will be in the development field and directed to the full utilisation of the material and human resources of the Province.

* * *

"All this requires the most careful planning, execution and supervision. We are satisfied that the existing machinery of Government is incapable of producing the necessary plans or of carrying them into effect, and we regard it as our prime task to evolve a machine which will be adequate for the purpose in view. But there is one thing which we should like to make abundantly clear at the outset, namely, that, in our view, the capacity of the machine which we shall recommend will fail to achieve its maximum results in the exploitation of land and water resources if the present outmoded system of land tenure remains. Apart from this consideration, the administration

of the districts in Bengal is clogged at every turn by the present system, and we cannot too strongly urge on administrative grounds alone that Government should give the earliest possible effect to the decision which they have already taken to adopt the majority recommendations of the Flood Commission."

**The Need for
integrating
Agrarian and
Administrative
reforms.**

11. The Rowlands Committee was purely a "machinery of Government" Committee and not concerned with questions of policy. So their support on administrative grounds to the Flood Commission's proposal for zamindari abolition assumes great significance and importance. We do not think there is any one in the country who holds a brief for the zamindari system as it exists today. The majority in our Committee are for its total abolition and the minority want it to be radically reformed. But as a Committee primarily concerned with land reform, we fear that any reform of the land revenue and land tenure systems merely on the lines of the Flood Commission or of the legislative measures recently adopted in Bihar and Madras, may not serve its purpose, but may, on the other hand, give rise to serious difficulties in the political and financial fields. Land reforms in our country, if they are to serve any purpose in the better "exploitation of land and water resources" for the benefit of the community, have to be integrated with a reform of the administrative machine as a whole on lines even more radical and drastic than those suggested by the Rowlands Committee. Land and agriculture, as they are operated in India today and will continue to be operated in the foreseeable future, cannot be treated in isolation from the other factors constituting the life of the whole community.

CHAPTER III

The Integrated Scheme of Reforms

12. As has been already mentioned, the Committee has thought it proper to give shape to its main recommendations as one integrated scheme of reforms.

The scheme is divided into three parts :—

- (A) Administrative ;
- (B) Legislative ;
- (C) Miscellaneous.

A—ADMINISTRATIVE

The Provincial Government should have a new department called the Land Reforms Department which will be in the Revenue Minister's portfolio until the commencement of the second stage of reforms and in the Prime Minister's portfolio afterwards in order to facilitate co-ordination. There will be a Land Reforms Commissioner who will be the Head of this Department and will also act as Secretary to Government. This officer will make all arrangements for the implementation of the scheme.

B—LEGISLATIVE

A comprehensive Orissa Lands Management and Local Government Bill should be prepared and passed to provide for the following :—

- I. (i) The Province, excluding the big municipal and industrial areas, will be divided into administrative units known as Anchals. Creation of Anchal Shasana.

Our Committee has tentatively delimited these Anchals for the Province as it stood before the integration of the States, and it has done so generally on the basis of one Anchal for one revenue thana or taluk. The newly integrated areas may be similarly divided into Anchals by the Land Reforms Commissioner.

(ii) There will be a local authority in every Anchal to be known as Anchal Shasan.

(iii) The Anchal Shasan will consist of (a) an elected Sabha to be known as the Anchal Sabha, and (b) an Executive Officer to be known as Anchal Sarvadhikari.

II. The full scheme of reforms as outlined here will take effect in these areas in stages. The first two stages will come into force by notifications of Provincial Government and the subsequent stages by those of the Anchal Sabha.

III. After the Anchals are delimited and Executive Officers appointed for them, the first stage of reforms will commence by the notification of the Provincial Government.

Consequences of
Notification—
the First Stage
of Refoms.

From the date of that notification the Anchal Shasan will come into existence, the Anchal Sarvadhikari alone functioning as the Anchal authority and notwithstanding any law for the time being in force, usage or custom or the terms of any contract or grant, the following consequences will follow :—

(i) All engagements for land revenue whether known as peshcush, sadr jama or otherwise, made or entered into with by proprietors under the Permanent or Temporary Settlements will be annulled.

(ii) All alienations or assignments of the land revenue made or recognised by Government, whether for a term or in perpetuity or limitation of the same, whether temporary or permanent, conceded by the Government in favour of proprietors will cease to be effective.

Deprovincialisa-
tion of Land
Revenue.

(iii) The customary and legal right of the State to a certain proportion of the produce of every plot of land will vest in the community which will exercise it through the Anchal authority ; the Anchal authority

will, however, be bound to pay annually to the Provincial Government such proportion of its gross annual collections as may be determined by Government, until the second stage of reform commences and the Anchal authority takes over from the existing local bodies and the different Government departments all their development work in the Anchals.

(iv) The proprietors and other intermediaries ~~Elimination of~~
between the raiyat and the State will be excluded ~~Intermediaries.~~
permanently from the possession and management of their estates and interests. These rights and interests will thereupon vest in the community free of all encumbrances and will be exercised by the local authorities. It will, however, be open to the Provincial Government to take under their direct management any mines, forests or any portion of such mines or forests situated in the Anchals consistent with any policy that may be laid down by the Central or Provincial Government.

(v) All rights created in or over the estates or in any part of them before the notified date will cease and determine as against the community.

(vi) The Anchal Sarvadhikari will, after removing Anchal Sarva-
any obstruction that may be offered, forthwith take ~~dhikari to take~~
possession of the estates and all accounts, registers, ~~possession of~~
pattas, maps, plans and other documents relating to ~~estates.~~
the estates which may be necessary for the administration thereof; he will not, however, dispossess any person of any land in respect of which the latter is *prima facie* entitled to a raiyatwari patta on the principles laid down hereinafter.

(vii) The proprietors, tenure-holders and other ~~Malikana to be~~
persons who will be deprived of the possession and ~~paid to inter-~~
management of their estates or interests by this scheme ~~mediaries.~~
will be entitled to receive Malikana to be paid annually and in perpetuity from the Anchal fund in the manner shown elsewhere in this chapter.

(viii) All rights and interests vested in the community or the Anchal authority will be inalienable, except in favour of the State.

(ix) Permanent Settlement and Temporary Settlement regulations and laws will be deemed to be repealed.

(x) All arrears of rent and cesses legally due to the zamindars and tenure-holders will remain payable to them by the defaulters.

**Land Reforms
Commissioner.**

IV. There will be a Commissioner of Land Reforms (the Land Reforms Commissioner already appointed before the passing of the Lands Management and Local Government Bill will naturally be appointed as the Commissioner of Land Reforms under the new Act). He will also be the Superintendent of Anchal Shasans. He will be responsible for giving effect to the provisions of the new law and in particular for superintending the taking over of zamindari and other interests by the Anchal Shasans; he will have powers to frame rules and issue instructions for the guidance of the Anchal Sarvadhikaris and the District Officers. He will also get the draft proprietors' Malikana Rolls prepared and finally published.

**Interim
management
of lands and
estates.**

V. All estates, tenures and lands vested in the community will be administered by the Anchal Sarvadhikaris before the commencement of the second stage of reforms, in the manner to be prescribed by the Land Reforms Commissioner.

VI. All local cesses or other public dues payable by the zamindars and other intermediaries will continue to be paid by the Anchal Shasans until the second stage.

**Anchal Sarva-
dhikari to deli-
mit Gram Pan-
chayat areas.**

VII. After the estates and other interests are taken over by him, the Anchal Sarvadhikari acting under the general supervision and control of the Land

Reforms Commissioner will divide the Anchal into a number of suitable areas each consisting of one or more villages with a collection of land revenue ranging from Rs. 3,000 to Rs. 5,000, for the purpose of land revenue collection and for the formation of Gram Panchayats. He will appoint one Village Officer with two peons for each such area. He will be responsible for making all arrangements for organising the Gram Panchayats under the Orissa Gram Panchayats Act and the Anchal Sabha under the new Act, and also for taking over all the responsibilities of the new system of local Government and land management which will devolve on the Anchal Shasan in the second stage.

VIII. The Constitution and the Proceedings and **Anchal Sabha** the working of the Sabha will be generally on the lines of the Central Provinces Local Government Act, 1948, except as expressly mentioned below :—

The Gram Panchayat areas whether constituted before or after the passing of the new law will take the place of the electoral divisions provided in the Central Provinces Act.

The Orissa Gram Panchayats Act should be amended to provide for voting by secret ballot in the elections to Gram Panchayat.

There will be as many members of the Anchal Sabha as there are Gram Panchayats in an Anchal. The members will be elected by the Gram Panchayats, members of each Panchayat electing one member, either from among themselves or from outside. There will be no reservation for Harijans but the Provincial Government may nominate additional members to the Anchal Sabha where adequate representation has not been given to backward tribes and Harijans.

There will be no provision for the nomination of the first Chairman and Deputy Chairman of the Anchal Sabha, as there is in the Central Provinces Act.

Though the Executive Officer and the Deputy Executive Officer will be appointed by the Provincial Government from the administrative services as under the Central Provinces Act, their salaries will be charged on the Anchal funds.

In view of the deprovincialisation of land revenue and the provision of minimum and maximum rates of assessment of a new tax called the Desh-bhag consolidating both the present land revenue and local cess, the provisions in Chapter XI of the Central Provinces Act will be suitably altered.

It should be clearly provided that the Anchal Sarvadhikari will be responsible to the Anchal Sabha as Secretary of the Sabha ; but he will be responsible to the Provincial Government as the Executive Officer of the Anchal Shasan for the execution of the policies and programmes lawfully laid down by the Anchal Sabha and the plans, orders and directions lawfully issued to the Anchal Shasan by superior authorities.

The Chapter in the Central Provinces Act dealing with supervision may be altered and with the provision for the appointment of a Land Reforms Commissioner who will be the Superintendent of Anchal Shasans and the creation of the District Co-ordination Boards with the District Officer as the Chairman, there will be no need for other Inspecting Officers.

No provision for the supersession of the Anchal Shasan is necessary in view of the clear provision that the Anchal Sarvadhikari will be ultimately responsible to the Provincial Government and in view of the closer integration of the scheme of Anchal Shasan with the general administration of the Province.

The main provisions of the Central Provinces Act which will be followed in general are indicated in Appendix III.

IX. On completion of the arrangements for the introduction of the second stage, the Provincial Government will notify a date on which it will come into force as given below :—

Second stage of reforms : Functioning of Anchal Sabha and other Consequences.

(i) The Anchal Sabhas will start functioning as a part of the Anchal Shasan.

(ii) The different Local Self-Government Acts under which the existing local bodies are functioning will be deemed to be repealed, except the Orissa Gram Panchayats Act, 1948 ; the existing local bodies other than the Gram Panchayats under the Orissa Gram Panchayats Act will cease to function and all their property movable or immovable will vest in the Anchal Shasans as may be allocated by the Land Reforms Commissioner ; all arrear cesses, fees, taxes or other dues payable to the defunct local bodies will become payable to the Anchal Shasans. The Orissa Gram Panchayats Act, 1948, will be amended to make it fit in with the proposed scheme ; the amendments should mainly provide for the following :—

(a) The expression ' District Board ' to be substituted by the Anchal authority ;

(b) the powers and responsibilities of supervision and control conferred on the Subdivisional Magistrate and the Registrar of Co-operative Societies to be conferred instead on the Anchal Sarvadhikari ; and

(c) the Village Officer appointed by the Anchal Sarvadhikari for each Panchayat area before the commencement of the second stage of reforms will become the *ex officio* Secretary of the Grama Panchayat.

(iii) Financial and administrative responsibilities and powers in regard to Education, primary and secondary, Public Health, Medical, Animal Husbandry, development of Cottage Industries including hand-spinning and hand-weaving, Agriculture Rural Co-operatives, Rural Marketing and Rural welfare Anchal

Anchal level now discharged by the Government departments will be taken over by the Anchal Shasans.

(iv) The field staff and services in all these departments and the defunct local bodies will be taken over by the Anchal Shasans with the exception of those that the Government may like to retain directly under the departments concerned.

Technical

Departments to
exercise techni-
cal control.

(v) The officers of the technical or development departments above the Anchal level who will continue to work directly under Government in their respective departments will continue to exercise control over the technical side of the work of the Shasan. Technical officers will correspond direct with the District or Provincial Heads of their respective departments on technical matters, i.e., "on how any particular project is to be carried out ; for instance, how teaching should be imparted, how a dispensary should be managed, how tanks should be cleaned, how potato seeds should be stored, and so on". Technical departments will lay down standards for all such activities which the Superintendent of Anchal Shasans will transmit to the Anchal Sarvadhikaris with any modifications that he may deem necessary on administrative or financial grounds and the Anchal Shasans will be bound to conform to them.

(vi) All officers and men employed exclusively within an Anchal will be paid from the Anchal funds ; in the case of Government servants loaned to the Anchal, contributions will be made to the Government from those funds.

Appointment of
Anchal Servants
and their
transfer.

(vii) All officers of the Anchals above a certain level, who have not been taken over from the Government or the defunct local bodies or loaned by the former, will be appointed by the District Officer as selected by the Public Service Commission. All employees below that level will be appointed by the Anchal Sarvadhikari.

(viii) Officers appointed by the District Officer will be liable to be transferred by the District Officer from one Anchal to another within a district and by the Superintendent of Anchal Shasans from one district to another. Such transfers should not ordinarily take place more frequently than once in five years and the District Officer will take the permission of the Superintendent of the Anchal Shasans if he deviates from this rule.

(ix) There will be an independent Audit staff Continuous under the Government maintained at the cost of Audit. Anchal Shasans for the regular and continuous audit of their accounts. It will be the duty of this Audit staff not only to audit and pass the accounts every month like those of the Government but also to help and guide the Anchal Shasans in the proper management of their finances.

(x) There will be a Co-ordination Board at the District district level under the Chairmanship of the District Officer and with a whole-time Secretary, and with the Co-ordination Boards. senior most officers in the district of the other departments of Government, the Anchal Sarvadhikaris and the Anchal Sabhapatis as members, for the purpose of co-ordinating the activities of different Anchals within a district. The Board will examine the draft Anchal programmes of the Anchal Shasans and prepare a draft district programme for submission to the Provincial Development Board.

(xi) There will be a Provincial Development Provincial Board with the Chief Secretary as the Chairman and Development the Secretaries of the other departments concerned Board. including the Finance Secretary as members and a full-time officer as Secretary with three non-official members to be elected by the Legislative Assembly. This Provincial Development Board will prepare an integrated Provincial plan for consideration of the Government after examining the draft district programmes

received from the District Co-ordination Boards and the functional plans of each department. It will break up the Provincial plan finally approved by the Government into District plans and send them to the districts for execution by the Anchal Shasans.

Provincial Government to have full powers of supervision and control. (xii) The Provincial Government will exercise full powers of supervision and control over the Anchal Shasans.

(xiii) Besides the functions and powers statutorily conferred on the Anchal Shasans, the Provincial Government may appoint the latter as their agents and make them carry out any function or execute any project that may be more suitably entrusted to them.

Repeal of existing Tenancy Laws. (xiv) The Orissa Tenancy Act, Central Provinces Land Revenue and Tenancy Acts applicable to Sambalpur, the Madras Estates Land Act and other Tenancy Acts applicable to the Province will be deemed to be repealed.

Incidents of Raiyati right. (xv) All raiyats including those excluded zamindars and other intermediaries who become entitled to get raiyatwari pattas for lands which they held as their private and Nijchas lands before the passing of the Act will have the right to occupy and use the land comprised in their holdings in any manner consistent with the principles of good husbandry and for any purpose connected with agriculture or horticulture or for the purpose of pasture and to make any improvement on it which is suitable to the holding and consistent with those purposes including the erection of dwelling houses and other structures for themselves and their families and the construction of wells and tanks on those lands.

Desh-bhag. (xvi) The Anchal Shasan, as representing the community, will realise from the raiyats Desh-bhag or Desh-kara in the place of Raj-bhag, rent or land revenue which is now payable to the Government or

the zamindar. But the Desh-bhag will not be the first charge on land and land will not be attached for arrears of rent. It will be assessed on the whole body of cultivators or raiyats including dispossessed proprietors holding lands as raiyats in a particular village and will be realised from them collectively through the Gram Panchayat. The Gram Panchayat will determine according to rules to be framed by the Land Reforms Commissioner what each individual raiyat will pay and will collect it from him like any other tax or public demand; in the case of his persistent failure to pay, the Gram Panchayat will be competent to take over the land under their Khas management and return it to the raiyat after recovering arrear dues from the usufruct unless in the meantime the defaulter pays them up. The balance of the usufruct after meeting the cost of production and management and the arrear dues will be payable to the raiyat. The Gram Panchayat will get a commission of 15 per cent of the Desh-bhag of the village from the Anchal Shasan and will be bound to maintain the collection staff prescribed by the latter.

(xvii) The minimum assessment on the raiyats in a village or the minimum Desh-bhag will be equal to the aggregate or sum total of the rent or land revenue which each raiyat is paying to the zamindar or the Government plus the local cess he is paying at the present time plus what the excluded proprietors would pay as rent and local cess for the lands they will be allowed to retain on raiyati basis. The maximum assessment on the body of raiyats in any village will be one-third of the annual value of all the assessable land in the village.

(xviii) If the Anchal Sabha passes a resolution for the collection of the Desh-bhag in kind and the majority of Gram Sabhas endorse the same at meetings specially convened for the purpose, the Desh-bhag will be collected in kind in the whole of

Minimum and maximum assessment on Raiyats.
Assessment in kind.

that Anchal at the rate of one-sixth of the gross produce of the principal foodgrain raised or capable of being raised on the lands. It should be collected in the principal foodgrain of the Anchal.

(xix) The principles or rules of assessment of Desh-bhag will be laid down from time to time by the Provincial Government and will be laid before the Orissa Legislative Assembly for a period of one month after their final publication in the *Orissa Gazette* and be subject to such modifications as the Assembly may make during such period.

**Prohibition of
subletting.**

(xx) Sub-letting of agricultural lands will be prohibited except on being made only in favour of widows, minors, idiots, lunatics, invalids or persons suffering from blindness, prisoners in jail or persons in the Military, Naval or Air Services of the country provided they have no member in their family to cultivate the lands on their behalf. But when it is possible to grow a second or subsidiary crop, either the raiyat or failing him the Gram Panchayat can sub-let the land for not more than one season on a rent not exceeding twice the amount of Desh-bhag payable for that land. Religious Endowments and Trusts, such as, temples, churches and mosques notified for the purpose by the Provincial Government can sub-let their lands in their Khas possession and can create and continue the present service tenures under them to the extent considered necessary by the Gram Panchayats subject to the approval of the Anchal Sarvadhikari, for the fulfilment of the objects for which these institutions were created.

Rate of rent for lands sub-let under the exceptions provided in this chapter will be :—

(a) Where the rent is payable in kind, one-third of the main cereal crop and one-eighth of the subsidiary cereal crop, if any.

(b) Where the rent is payable in cash, double the assessment payable by the raiyat for the land.

(c) Where the land is held assessment-free or at a favourable assessment by the raiyat or the endowment, the cash rent will be calculated with respect to the assessment payable by the occupancy raiyats for similar lands in the village.

(d) No rent paid in kind shall be subject to commutation.

(xxi) In case of sub-letting in contravention of the above provision of law the raiyat's right in the land will be extinguished and the Gram Panchayat will dispose of the land subject to the rules of pre-emption or arrange to get it cultivated by bona fide Co-operative Farming Societies or similar suitable bodies on such terms as the Panchayat may consider reasonable.

(xxii) Any raiyat, not coming under any of the exceptions mentioned in (xx), who does not personally cultivate his lands, will be deemed to have sub-let it in contravention of the law. "To personally cultivate" will be defined as meaning "to cultivate on one's own account" (a) by one's own labour or, (b) by the labour of any member of one's family, or (c) by servants paid in cash or kind but not in crop share, or (d) by hired labour under one's personal supervision or the personal supervision of any member of one's family.

(xxiii) The tenant who has been protected against ejection from any land under the Orissa Tenants Protection Act, 1948, will be entitled to acquire the right of the raiyat in respect of that land on payment to the raiyat (including excluded proprietors) of a consideration not exceeding four times the value of the average annual gross produce of the land during the preceding 10 years.

If the protected tenant does not exercise the above right within a period of five years from the commencement of the second stage of reforms, he will not be entitled to exercise the right after that period.

(xxiv) The above provision will be subject to the following :—

If a raiyat, including an excluded proprietor in respect of his private lands, under whom any protected tenant may be holding, was in possession of less than 33 acres of land under his personal cultivation on the 30th November 1947, he will be entitled to eject the tenants under him to such an extent as would make up the land in his possession and under his personal cultivation 33 acres :

Provided that if the raiyat does not exercise the above mentioned right and take steps to take under his personal cultivation any land in the possession of a protected tenant within two years from the commencement of the second stage, he will cease to have that right :

Provided further that if the land from which the protected tenant has been ejected by the raiyat for cultivating it personally is transferred to any one other than the ejected tenant within a period of six years from the date of ejection such transfer will be void and the transferor's right therein will be extinguished and the land disposed of as provided in (xxi).

Thirty-three acres of land will mean in the above provision 33 acres of land other than homestead, land used for horticultural purposes and land not fit for cultivation.

(xxv) Of the rights and powers accruing from the interests vested in the community according to the provisions of sub-para. (iv) of part B. III of our scheme, the Gram Panchayats will exercise the following powers subject to rules to be framed by the Land Reforms Commissioner and subject to an appeal to the Anchal Sarvadhikari :—

(a) management of waste and communal lands and of the trees standing on them, village forests, sources of what is called Sairat such as ferries, fisheries,

Powers of
Community
exercisable by
the Gram
Panchayats.

markets etc., pathways and sarbasadharan wells, tanks and water channels, i.e., those used for communal purposes,

(b) enforcement of the provisions on sub-letting, and (c) enforcement of the rules of good husbandry.

(xxvi) The Anchal Sabha may lay down rules and Anchal Sabhas principles of good husbandry for the Anchal as a to lay down whole or for different parts of it, having regard to rules and the character and position of the lands. The Anchal principles of Sabhas should be guided by the advice of the Agricul- good husbandry. tural Department in these matters and the rules and principles laid down by Anchal Sabhas should be confined to the following points—

(a) maintenance of the land in a good state of cultivation and fertility and in good condition ;

(b) maintenance and clearing of drains, embankments and irrigation channels whether situated in the raiyats' lands or not ;

(c) maintenance and improvement of the quality of seeds.

The rules and principles should be such as may be understood by the raiyats and enforced by the Gram Panchayats quite easily. The Anchal Sarvadhikari may issue directions to the body of cultivators in accordance with these rules to adopt certain common measures for the improvement of cultivation in the village. In case of their failure to carry out the work he should have power to execute it through the Gram Panchayat and recover the cost from the villagers through the same agency.

In case of persistent failure on the part of a raiyat Enforcement to comply with the principles or rules or directions of of rules or the appropriate authority, the Gram Panchayat with principles. the prior approval of the Anchal Sarvadhikari may take

possession of the raiyat's land and arrange for its cultivation on proper lines with the help of Co-operative Farming Societies or such other suitable agency on such terms as may be prescribed by the Anchal Authority in this behalf.

(xxvii) If the raiyat allows his land to lie fallow for a continuous period of two years except for reasons beyond his control, his right therein will be extinguished and the Gram Panchayats will dispose of the land as in (xxvi).

Free transfer
of holdings.

(xxviii) The raiyat will have the right of freely transferring his holding subject to the following provisions :—

Minimum size
of holding.

(a) If the total area of cultivable land held by a raiyat is less than the minimum area prescribed by the Anchal Sabha and approved by the Land Reforms Commissioner, no transfer of any part of such total land will be permitted. Such transfers will be void. Transfer includes partition and subdivision of holdings.

Right of pre-emption.

(b) The co-sharer raiyat, the raiyat holding the contiguous land and approved Co-operative Farming Societies in the village will have the right of pre-emption ; precedence being given in the order stated here. As among more than one co-sharer or more than one contiguous raiyats, the raiyat with the smallest holding will get the preference.

(c) When a raiyat's holding is sold, the co-sharer or the contiguous raiyat or the Co-operative Farming Society may claim before the Gram Panchayat for transfer of holding in his or its favour for a consideration to be fixed by the Gram Panchayat but not exceeding five times the value of the average gross annual produce during the preceding ten years :

Provided that such right of pre-emption cannot be exercised where the raiyat has given notice of his intention to sell to the Anchal Sarvadhikari and the

latter has published such notice at least for one month in his office and the office of the Gram Panchayat concerned showing the particulars of the land and the price offered, and within a month of the last date of such publication no claim has come from the persons interested.

(d) No transfer by a raiyat belonging to a backward tribe in areas notified by Government of his right in his holding will be valid unless it is made to another member of a backward tribe. Holding of a member of backward tribe. In special cases of hardship, a raiyat of a backward tribe may be permitted by the Anchal Sarvadhikari to transfer his holding to a person not belonging to a backward tribe, but no such permission will be given unless a clear one month's notice is published by the Anchal Sarvadhikari in the office of the Anchal and Gram Panchayat concerned of the particulars of the land and the price offered by the proposed vendee and unless within a month of the last date of this period a member of a backward tribe comes forward to purchase the land and offer either the above price or five times the value of the average annual gross produce during the preceding ten years whichever is lower.

The Provincial Government will notify from time to time what tribes are to be considered as backward for the purpose of this provision.

(xxix) The Anchal Sabha may at a special meeting called for the purpose will determine and notify areas where fragmentation of holdings will be prevented. The Sabha thereupon with the approval of the Land Reforms Commissioner will declare minimum size of holding for each notified area or parts thereof below which it will be uneconomic to cultivate the land. Prevention of fragmentation of holdings.

(xxx) No land in the notified area will be allowed to be transferred or partitioned so as to leave a holding

below the minimum area. The holding which is below the minimum area can be transferred in whole but not in part except that the transferring raiyat may retain his homestead land, if any, while transferring the rest.

(xxxi) No land will be acquired by any local authority or sold at any sale held under the orders of any court so as to leave a holding below the minimum area and the portion not required by the local authority will be disposed of according to rules to be framed by the Land Reforms Commissioner.

**Consolidation
of holdings.**

(xxxi) Where a majority of villagers in possession of not less than half the land in any village apply for consolidation or where any Gram Panchayat or Gram Sabha at a special meeting convened for the purpose passes a resolution favouring consolidation of all the holdings in the Panchayati area, the Anchal Sarvadhikari will proceed to prepare a scheme for the consolidation of holdings in such village or Panchayati area. Regarding the procedure for implementing the scheme and other matters relating to consolidation and prevention of fragmentation, provisions should be made on the lines of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947. All holdings which are below minimum size may be assigned in a compact block in order to make it possible for their owners to take up joint or co-operative farming. The Land Reforms Commissioner will take the place of the Settlement Commissioner in the Bombay Act.

**Maintenance of
Land records.**

(xxxi) The Anchal Sarvadhikari will maintain with the help of the village officers-cum-Panchayat Secretaries, an up to date record of rights regarding all the lands in the Anchal. The lands will be classified in the following categories :—

(a) homesteads,

(b) lands used for agricultural or horticultural purposes, including tanks with or without any private

rights of fishery therein, other than any land comprised in homestead ;

(c) lands of any class not falling in category (b) which are cultivable and which are capable of cultivation on reclamation ;

(d) lands which consist of forest, jungle, water-courses, marshy tracts with or without private rights of fishery therein and sandy chars (pata) or other uncultivable lands ;

(e) Hats and bazars ;

(f) lands, such as roads, pathways, common burial or cremation grounds, rivers, Khals and water-courses, which the public may use by common right or right of easement.

The changes on account of the following items should be incorporated as they occur—

(a) the mutation of names as a result of transfer or inheritance,

(b) the subdivision, amalgamation or consolidation of holdings ,

(c) the new settlement of lands or of holdings vesting in the Gram Panchayats,

(d) the abatement of Desh-bhag on account of abandonment, diluvion or acquisition of land, and

(e) the total Desh-bhag payable by the body of cultivators in each village :

(f) Change in the classification of lands.

(xxxiv) The Land Reforms Commissioner will be the Director of Land Surveys and Settlement and will maintain a trained staff for undertaking surveys and settlements on behalf of the Achnal Shasan and at their cost ; the Achnal Shasans may however realise the cost wholly or partially from the raiyats.

The Land Reforms Commissioner will have power to frame rules regarding maintenance of Land Records.

**Principles for
calculating
Malikana.**

X. (i) (a) For the purpose of calculating Malikana the average of the legitimate gross income that is due during the agricultural year in which the management is taken over by the Anchal Shasan, and the gross annual income derived by the zamindar and the other intermediary interests during the preceding two years will be taken as the basis, but with respect to forests, the average income which will be derived by the Government during the first three years from the date, the management is taken over by the Government will be taken as the basis. In North Orissa rent in kind payable by occupancy raiyats is to be valued at the prevailing cash rate for similar lands in the neighbourhood and in South Orissa where there has been no settlement of rent in cash, kind rent will be valued on the principles of commutation as laid down in section 40 of the Madras Estates Land Act. From the whole there shall be a deduction of 15 per cent on account of cost of management. Malikana should be granted as follows :—

Basic sum (average annual gross income calculated as above minus 15 per cent on account of management in rupees)	Percentage of the basic sum to be paid as Malikana
Not exceeding 1,000 ..	20
Exceeding 1,000 and not exceeding 5,000.	19
Exceeding 5,000 and not exceeding 25,000.	18
Exceeding 25,000 and not exceeding 50,000.	17
Exceeding 50,000 and not exceeding 75,000.	16
Exceeding 75,000 and not exceeding 1,00,000.	15
Exceeding 1,00,000 and not exceeding 5,00,000.	10
Exceeding 5,00,000 ..	7½

provided that no estate will get less Malikana on account of its higher income.

(b) Inam estates and revenue-free estates will get Malikana in the following scale :—

Basic sum	Percentage payable as Malikana
Not exceeding Rs. 500 ..	60
Exceeding Rs. 500 and not exceeding Rs. 1,000.	50
Exceeding Rs. 1,000	40

subject to the same proviso as stated above.

(c) In regard to estates of important religious and charitable endowments like the Temple of Jagannath, to be scheduled by the Provincial Government, the full amount of the present net income may be paid as Malikana.

(d) The estate of Patia in Cuttack district and Jagir Mahal estates of Puri district will be entitled to Malikana at the maximum rate of 20 per cent allowed in the scale given in (a).

(e) At the time of awarding Malikana due account will be taken of the damage and destruction caused to forests and other property in the estates as a result of any action or negligence on the part of zamindars and other intermediaries and a suitable deduction will be made from the Malikana due to them as may be decided by the Land Reforms Commissioner.

(ii) After the estates and interests of other intermediaries are taken over no decree can be executed against the assets of such estates or interests and not more than 50 per cent of the Malikana due to the zamindars and other intermediaries will be liable to attachment in payment of dues to private creditors.

(iii) Pending settlement of final Malikana, interim Malikana calculated on the available data including the existing settlement records should be paid to

zamindars and other intermediary interests from the date they are relieved of the management of their estates or interests subject to adjustment when Malikana is finally determined.

(iv) All Malikana not exceeding Rs. 100 may be redeemed at the option of the Government on payment of its capitalised value calculated on the basis of 4 per cent interest.

(v) Malikana determined according to the above scale will be apportioned between the proprietor and the sub-proprietors in an estate in proportion to the net income enjoyed by them respectively out of the profits of the estate, but in case of tenure-holders whose gross collections have not entered into the assets of the estate, they will be entitled to a Malikana equal to 20 per cent of the difference between their gross income as intermediaries and the rent payable by them to their superior landlord on account of their intermediary interests.

(vi) Malikana will not be transferable except by inheritance and succession and except among co-sharers. In cases where there are more than one inheritor the Malikana will be payable to them jointly.

(vii) Estate will be taken as the unit for the purpose of calculating Malikana. The share of each co-sharer in each estate where there is more than one proprietor will be calculated in proportion to the extent of his share after issue of a notice to all recorded co-sharers and a general notice to the public. In cases where due to disagreement among the co-sharers or any other cause it is not possible to apportion the Malikana it shall be awarded to the joint body of co-sharers and be payable to them jointly from any District Treasury or Sub-Treasury where the estate might be situated. All shares of an individual in the whole Province when determined will be added

together and he will be entitled to receive the total Malikana from the Sub-Treasury of the Anchal or the District Treasury of the district in which he resides as may be decided by the Land Reforms Commissioners. The total sum representing the Malikana will be the first charge on the revenue of the Anchal authorities (excepting those in the existing raiyatwari and Khasmahal areas) in proportion to their gross revenues.

(viii) The Land Reforms Commissioner will collect the necessary data after a general notification in the official Gazette to all proprietors and other intermediaries for the calculation of Malikana and will give his award after hearing such objections as may be provided for in the rules. There will be an appeal from his decision to a Special Tribunal consisting of a High Court Judge and another official and a non-official whose decision shall be final. No Civil Court will have any jurisdiction in this matter.

(ix) No Malikana interim or final shall be payable before the Land Reforms Commissioner is satisfied that all records and accounts in connection with the estates and tenures have been received fully from their holders.

(x) Arrears of land revenue and other dues payable to the Government will be recoverable from the Malikana in such instalments as the Provincial Government may decide and arrears of rent due to superior landlords may be recoverable from the Malikana of the inferior proprietors and tenure-holders on the application of the persons interested and after the disposal of such objections as may be advanced. Arrears of land revenue and other dues payable to the Government will be the first charge on the Malikana and the arrears of rent due to the superior landlords will be the second charge and both these arrears will receive priority in relation to other dues that may be payable by the proprietors and other out-going intermediaries.

Provision for
Legal Compensation.

XI. Every excluded and dispossessed proprietor will be paid by the Provincial Government rupee one as compensation for any such rights as may be legally held to have been "acquired for public purposes" as a result of the operation of the proposed legislation.

C—MISCELLANEOUS.

Promotion and
maintenance of
efficiency and
discipline.

It will be noted that in the scheme of local Government and land management outlined above, local officers have to exercise very great financial and administrative powers and that the success of the scheme will depend on the honesty, efficiency and tactfulness of these public servants. We fully endorse the opinion of the Rowlands Committee that Service Rules have to be radically altered and the existing law dealing with bribery and corruption has to be amended before we can expect any improvement in public service in these respects.

I. We recommend that the rules relating to promotion and maintenance of efficiency and discipline be changed in order to provide—

(i) increments in the scale should not be given as a matter of course but should always depend on the officer's satisfactory record during previous year ;

(ii) persistently inefficient officers may either be dismissed or compulsorily retired ;

(iii) it should be an offence for a public servant to seek a personal advantage from a Minister either directly or through another person ;

(iv) promotion should be in the interests of the public service and not of the individual and save in the lowest grades where seniority should be given due weight, it should be by merit ;

(v) officer's confidential character roll should be kept more elaborately to include in the material on record estimates of the officer's power of taking responsibility, power to control subordinates and general

capacity to discharge the duties of higher posts for which he is potentially a candidate.

II. We recommend that even more drastic steps Bribery and than suggested by the Rowlands Committee should be Corruption. taken to deal with bribery and corruption. The following administrative and legislative remedies are recommended by us—

(i) There should be stricter and more thorough Administrative supervision than at present. Slackness or negligence remedies. on the part of supervising officers should be punishable ;

(ii) Much more resolute action should be taken than at present, where suspicion is aroused ;

(iii) Public servants should be bound to report at once any case where they have been offered illegal gratification ;

(iv) Public servants should be bound to submit lists of properties owned by them individually or jointly as members of a joint family and by their wives and dependants.

(v) Benami purchase of property by public servants should be prohibited and infringement of the rule should be punishable by removal from office ;

(vi) Where a public servant has been convicted of corrupt practices, he should be instantly dismissed and there should be no question of a grant either to him or his family of a compassionate gratuity.

(vii) Sections 161 and 165, I. P. C. should be made cognisable ;

(viii) Section 162 of Cr. P. C. should be amended Legal remedies. to provide that statements made to a police officer not below the rank of Deputy Superintendent of Police in the course of an investigation into a case of bribery will be available for use as evidence ;

(ix) The amount of punishments in bribery cases should be enhanced and the law amended so as to provide for confiscation of properties acquired through corrupt means ;

(x) It should be provided in law that where any money, gift or other consideration has been paid or given to any public servant by any person or agent of a person holding or seeking to obtain a contract or any person or agent of a person with whom the public servant is in official relation, the money, gift or consideration will be deemed to have been paid or given or recieved corruptly, unless the contrary is proved ;

(xi) It should be provided that if a public servant or his dependants are known to have become possessed of a sudden accretion of wealth, the public servant concerned would be deemed guilty unless he could prove that the accretion of wealth was honestly obtained.

(xii) The person compelled to give bribes will be given immunity from prosecution if the compulsion is proved.

सत्यमेव जयते

CHAPTER IV

Deprovincialization of Land Revenue

13. One of the most striking features of the scheme of reforms recommended by the Committee is the deprovincialization of the land revenue. Let us examine this particular item of our recommendation on its own merit apart from the merits of the scheme of which it is an integral part.

14. By the resolution of the Orissa Government appointing our Committee we were asked "to recommend legislative and other measures for reforming the different system of land revenue in the Province with a view to make the incidence of land revenue or rent, as the case may be, as far as possible uniform, equitable and elastic "

15. At an early stage of our deliberations, before the emergence of our integrated scheme, we had formulated certain tentative proposals regarding land revenue. Those proposals represented the utmost limit we could go within the existing fiscal and administrative frame-work. But the categorical recommendations in this matter of the Nehru Committee, whose report was published in 1948, compelled us to re-examine the whole position. The recommendation was :

"The present land revenue system should be replaced by progressive taxation of agricultural income "

For a Province like Orissa where the Agricultural Income Tax is already there, the implementation of this recommendation will mean the abolition of land revenue. We had to consider this recommendation with two other recommendations of the same Committee, namely, the elimination of all intermediaries between the tiller and the State and the fixing of

the maximum size of holdings. We have already recommended as an important part of our scheme that all intermediary interests between the actual tiller and the community should be extinguished and though, while finalising our proposals, we have dropped the proposal for fixing a maximum limit of possession, we have done so because the statutory prohibition of subletting and the enforcement of a standard of cultivation which we have provided in our scheme, will effectively reduce the size of the big holdings without any statutory fixation of limit and the consequent need for acquisition of the surplus lands by the community. The implementation of these recommendations will allow very few agricultural incomes to remain above the exemption limit. So the public exchequer is going to get practically nothing from that source in the new order. In these circumstances, at a time when there are demands for more public expenditure in all kinds of governmental activities including even measures for security, all proposals which would have the effect of eliminating land revenue from the total fund available for public expenditure, has to be ruled out. But at the same time we could see that it would no longer be possible to merely reform land revenue within the existing frame-work as we had tentatively decided to recommend. Public opinion in India has all along condemned land revenue as a regressive and inequitable tax since the beginning of British rule and the issue was now finally settled by the Nehru Committee and any attempt to retain land revenue on its old basis would certainly be fraught with grave political risks. There were already clear indications that mere abolition of zamindari system was simply going to clear the ground for a direct and frontal attack on the Government on the issue of land revenue ; dispossessed intermediaries would naturally become the most enthusiastic soldiers, if not, leaders in such a crusade.

A serious
dilemma.

16. After long and careful consideration we have come to the conclusion that deprovincialization of land revenue is the only satisfactory way out of the above impasse or dilemma. Deprovinciali-
sation of Land
Revenue only
way out.

First of all, it will be fully in conformity with accepted principles of fiscal reconstruction. Dr. Gyan Chand in his illuminating book "Some aspects of Fiscal Reconstruction in India," wrote (at page 17),

"The impersonal taxes have to be with us not merely because we cannot do without them on account of fiscal and practical reasons, but also because they have a place of their own in every well-grounded tax system and so their abolition is undesirable on that account. They must occupy a pre-eminent position in local taxation."

Further ahead dealing specifically with the land revenue, he struck a prophetic note (at page 52),

"In no other country of the world has a step like repealing an important tax like the land revenue been taken merely because certain theoretical considerations were in its favour. It is not known what place the land revenue will occupy after two generations in our fiscal system. Its ultimate destiny is merely of academic interest. *It will most likely be a local tax and be administered by local authorities*".

Things have moved much faster than most of us expected and so what was of academic interest in 1927-28 has become a question of the most practical interest to-day.

Secondly, a local tax will be much less vulnerable to public criticism than a Provincial or Central tax.

The Indian Taxation Enquiry Committee, 1924-25 said in their report,

“Taxation of this class would be much less unpopular than an increase of the land revenue since it would be imposed for local purposes by local bodies, which would be largely composed of the representative of the landed interest. At the same time it is evident that while the future development of the country will involve an enormous increase of expenditure, the services on which this money will be spent will be predominantly services in which the local bodies are interested.”

Lastly, such a measure alone can make it possible to have local authorities with sufficient funds to efficiently carry out the multifarious development programmes in the country. In a later chapter we shall discuss the need for the creation of such local authorities with greater funds, powers and functions though of smaller size than the existing ones ; it is enough to state here that it is only local Government of this type which can make our people learn the first postulate of democracy and regard taxation as a social investment and not “ a burden to be exacted from the unwilling victim ”. The conversion of land revenue into a local tax seems to us, in these circumstances, to be the only practical method of implementing the policy underlying Nehru Committee’s recommendations in this regard. In the words of Dr. Gyan Chand,

“ the best method of rendering them (the rural classes) fiscal justice is to change the incidence of expenditure even if the incidence of taxation cannot be materially changed, and thereby make a real change in the life of the people ”.

The whole of the yield from what is now called rent or land revenue and the ‘ local cess ’ will be placed

under our scheme at the disposal of the locality in which they are collected and spent on local improvements.

17. Once this fundamental question of fiscal Principles of justice was satisfactorily solved, the Committee could Assessment. see its way to recommend without further hesitation the principles of assessment it had formulated at an earlier stage. The Todhunter Committee (the Indian Taxation Enquiry Committee, 1924-25) had recommended to adopt "the annual value" by which term they meant "the gross produce less cost of production" as the basis on which the assessment on the raiyat should be calculated and they had recommended a rate of 25 per cent as the maximum pitch of assessment. They had, while making the recommendations, not only left the incidence of expenditure of the tax as it was but had advised raising the local cess. In view of the fact that we have advised a radical change in the incidence of expenditure and consolidated the local cess into the assessment on land, the fixing of a maximum pitch of $33\frac{1}{3}$ per cent on the annual value of the land should not be considered unreasonable.

18. We have left scope for assessment in kind of Scope for assess. what will be called the desh-bhag on the whole village ment in kind. according to our scheme. That has been advocated very strongly by the Gandhian school of economists as a remedy for many of our ills. We think that in view of the fact that even the existing government machinery has been successfully handling very large quantities of foodgrain in connection with the Monopoly Purchase Scheme and that in any case even in the future when food control will be lifted, storage and marketing facilities will have to be provided for the cultivators' produce, an experiment in kind rent can quite safely be undertaken under our scheme in localities where the necessary popular support will be forthcoming.

CHAPTER V

Decentralisation in Government

19. The Congress Objectives Resolution under which the Nehru Committee was appointed said :—

Decentralisation
of political and
economic
powers under
planned Central
direction—Our
Objectives.

“ Democracy in the modern age necessitates planned central direction as well as decentralisation of political and economic power, in so far as this is compatible with the safety of the State, with efficient production and the cultural progress of the community as a whole. The smallest territorial unit should be able to exercise effective control over its corporate life by means of a popularly elected Panchayat.”

Not a revival
of the past.

20. It is accordingly that “ Decentralisation of political and economic powers coupled with central planning and direction ” has become the keynote of our proposals. This idea should not, however, be confused with the idyllic eulogisation of the past and the desire to revive the ancient rural economy in India. We cannot better or more forcibly clear up the confusion than by quoting the words of Mahatma Gandhi, the greatest advocate of a decentralised economy in the modern age. Addressing the Board of Trustees of the All-India Spinners’ Association on the 3rd September 1944, Mahatma Gandhi said :—

“ The Charkha existed during the Muhammedan period also. Those were the days of the Dacca Muslin. Even then the Charkha was the symbol of destitution and not of Ahimsa. The princes used to make women and the down-trodden people render compulsory labour. Afterwards the East India Company did the same. We find the same thing in the Arthashastra of Kautiliya.

Even from those early days the Charkha had begun to symbolise violence and compulsion. Those who plied the Charkha used to get a handful of grains or a few coppers.....I have taken upon myself the task of converting the Charkha that was for centuries the symbol of poverty and destitution, oppression and violence into the symbol of the highest non-violent power, organization and economic system. I have turned things upside down and changed history."

21. Thus it will be seen that though certain old **Towards a new** forms and terms have been adopted, the content of our **World Order**. idea is radically different ; perhaps the difference is as great as between the communism of the primitive tribes and that of Soviet Russia. The democratic Nation State with its emphasis on centralization of political and economic power grew out of the feudal order with its numerous small and isolated villages and localities whose economy was decentralised not by choice but by necessity. We have now reached a further stage in the progress of humanity when we must look beyond the Nation State to the One World. And it is in the interest of a World Order based on democracy that decentralisation has been advocated by Mahatma Gandhi and a host of eminent thinkers of the modern age. Writing about the pattern of living in Post-war Britain in his " Intelligent Man's Guide to the Post-war World ", Cole says :—

" World Order and the Spirit of Community—

None of this, I know, fits in with our present pattern of living, or with its tendency, which is to divorce the ordinary citizen more and more from doing things in politics and then complain of his lack of political interests and his apathy about education in

citizenship. How can we expect him to be anything but apathetic when, in the vast majority of cases, the education he is offered has no relation to action, or at any rate to any action that seems to him to fall within the range of his powers. Ordinary men and women can only understand what is at stake at Dumbarton Oaks or San Francisco, or for that matter at Westminster, if they can visualise it as a magnification of their own practical affairs. Preventing Fascist aggression in the world is, after all, at bottom the same thing as keeping in check an unneighbourly neighbour who steals one's apples or garden tools, and never returns what he has borrowed, or commits persistent 'nuisance' by his insanitary or drunken habits. But people do not see the problems as the same unless they have learnt in practice to deal with their neighbour in an orderly way, as a community acting together. Nor do they see the national problems of Government and organization as analogous to the little problems of their own street or block of flats or housing estate, unless they are given a real place in the collective management of their small, local affairs.

" If we mean democracy, we must live together in a more communal and neighbourly way, and run our own local affairs more as self-governing communities. Education, in school as well as among adults, should constantly foster this way of living; and the whole endeavour of Government from higher up should be to hand power down and not to engross it. Within the existing

scope of local Government, this can hardly happen ; for the technical pressure towards administrative centralisation is too strong : The answer is—Widen the functions, to include the new territories I have mentioned, which are mainly functions capable of being organised, subject to co-ordination by larger authorities, on a small scale, and indeed must be so organised if they are to be in any real sense democratically arranged.”

22. Besides these wider and higher political considerations, there are other immediate and practical administrative considerations of administration which have made the grounds. need for such decentralisation imperative.

23. As already mentioned in an earlier chapter, Our proposal we have accepted the Report of the Rowlands (Bengal based on Rowlands Administration Enquiry) Committee as the latest and most authoritative expert opinion so far as the reform of the administrative machinery of the Government is concerned. In paragraph 19 of their report the Rowlands Committee observed :—

“ Now co-ordination, together with decentralisation, the establishment of clear and precise lines of authority and the fixing of levels at which decisions are taken, are the main principles of organisation whether in business or in Governments.”

Their criticism of the existing governmental machinery in this regard has been amply borne out by the experience of the Central and Provincial Governments in India during the last three years :—

“ Organisational structures and methods which were suitable enough when the activities of Government were confined to the regulatory policing and revenue fields are quite

inadequate to handle the advances on the economic and social fronts which have increasingly become the major concern of Governments in progressive countries."

As the Rowlands Committee rightly pointed out: --

"There is no mechanism or agency to ensure that those activities of Government which are directed to a common end and which should therefore be interwoven and interlocked are closely and constantly co-ordinated."

This is true with regard to activities at provincial, district and field levels. The measures we have suggested to ensure co-ordination of development activities in all the fields are essentially on the lines of the recommendations of the Rowlands Committee; these measures are designed to integrate the activities of the different departments by the combination of the operating units under additional administrative officials, viz., the District Officers and the Anchāl Sarvadhikaris, interposed between them and the Government. Without in any way reducing the power and responsibility of the provincial Government and their administrative officers at the provincial and district levels in the matter of planning and effective direction, we have sought to set up statutory local authorities in areas analogous to the smaller Circles recommended by the Rowlands Committee for Bengal, in the place of the existing local self-governing bodies, which, in our opinion, have become quite outmoded and unnecessary.

An improve-
ment

24. We think that these local authorities, each consisting of a popular Sabha and a Government officer as the sole executive and functioning under the direct control and supervision of the District Officers and the Land Reforms Commissioner, will be in a much

better position than the Circle Officers proposed by the Rowlands Committee to conduct the multifarious work of development and reconstruction in their respective areas which are now in the charge of different departments of the Government and the local bodies.

The Rowlands Committee wanted the Union Panchayats as Boards to play an important role in the new administrative set-up as the smallest unit of Government ; we think that instead of the Union Boards the unit should be the Gram Panchayats and that seems to be the policy already accepted by most Provincial Governments including our own as evidenced by recent legislations. But at least in this Province there seems to be a considerable amount of misgiving in the minds of both Government officers and the people about the actual working of these Panchayats ; while on the one hand there is fear in Government circles that as things are at the present moment, these Panchayats will be utilised by undesirable elements in the villages to serve their own selfish or partisan ends and it will be difficult for the Subdivisional Officer and more so for the Registrar of Co-operative Societies to effectively supervise and control them, if such Panchayats are constituted everywhere ; on the other hand, people fear that both the Subdivisional Officer and the Registrar, Co-operative Societies, do not and cannot have adequate knowledge and understanding of local affairs and so are likely to interfere in the work of the Panchayats in a wrong way under the influence of interested parties. These misgivings on either side appear to be true and we are afraid that these Panchayats will prove a total failure and make the gulf of distrust between the public and the public servants still wider, unless they are made to form an integral part of a radically different kind of administrative set-up as has been recommended by us. Under our scheme, the Anchal executive officer will take the place of the Subdivisional Officer and the Registrar of Co-operative Societies for supervision and control of Panchayats. Unlike either of them he

Panchayats as
the smallest
units of
administration

Risks involved

How safeguarded

will be responsible for the proper execution of the development plans covering every field of nation building activities and he cannot possibly discharge this heavy responsibility without the willing support and participation of the people and their Gram Panchayats. He will thus have sufficient local interest and knowledge to be able to guide and help the village Panchayats as well as to control them in the right way.

Only method
for enforcing
Community
control of lands
management

25. While indicating our general approach to the main problems referred to us, viz., those relating to the management of lands, we said that, "The needs and interests of the community must be the prime consideration in any scheme of agrarian reforms" and that accordingly one of the main questions that concerned us was, "What duties and responsibilities the raiyat should have towards the community after the elimination of all intermediaries and how to enforce them". There is no doubt in our minds that any attempt to exercise the authority or control of the community over the raiyats, in the matter of management of lands, through Government servants working under the direct administrative control of any department of the Provincial Government is bound to prove futile and would be opposed not only by the raiyats who will come under control, but by the whole community as a wanton and meddlesome interference with private rights without any compensating advantage to the community. It will also mean letting loose on the people in the villages a host of subordinate officers without any agency on the spot to guide and control them, even the best of whom will be interested merely in enforcing laws and regulations and carrying out orders without any responsibility to show any positive work in any field of development. In a country like ours in which for various reasons, land and agriculture will continue yet for a considerable time to be operated mainly by small holders, there is little scope for rapid developmen's

and improvement in methods of land management and agricultural production, unless the people themselves are somehow mobilised in corporate and co-opertive activities. It is only an agency like the local authorities suggested by us, which can, in the first instance, do tangible and positive service to the people with the ample funds and technical staff at their disposal, and will therefore, be able to whip up popular enthusiasm and enlist the requisite popular support for any constructive agrarian reforms. The unsocial individualist tendencies which are at present blocking all progress and reconstruction in the villages can be held in check only by the new social consciousness that will be thus engendered. Experience in the administration of farm production programme in the United States of America and the measures or ensuring

And for mobilising popular support for agrarian reforms.



Provincial Government and their officers under our scheme than at present. It may appear to be a retrograde change but those who have carefully observed the working and progress of the local self-government bodies in India have remarked that if their work has not been satisfactory and if their standard of administration has been even lower than the Government departments', it is due mainly to the absence of official help and supervision. There is no provision even for a continuous independent audit of the accounts of the local bodies. It would appear as if for political reasons these institutions were allowed a long rope by the British Government ! But in fairness to the latter, it must be said that when all political power was centra-



appendages ; as a matter of fact, the Executive Officers who will be the agents of a democratic Provincial Government can ill-afford to carry on without the support and advice of these popular bodies. It may also be pointed out in this connection that an Anchal Sabha will not consist of representatives of mere individual voters, but will consist of representatives of Gram Sabhas which will be wielding considerable power in various matters through elected Panchayats.

27. In order to assure itself and the Government about the financial feasibility of the scheme, the Committee had to go into its financial implications in as great detail as was feasible in the circumstances. We are particularly grateful to our colleague Mr. Samuel Das and the Secretary for taking great pains in preparing statements on the subject, and to Sri B. C. Mukharji, I. C. S., the Chief Secretary to Government, for submitting a memorandum * in which he set forth very clearly the financial issues. Let us quote from Sriji Mukharji's memorandum :—

“The broad financial position is that after acquisition of zamindaries by compulsion or by agreement, the gross rent receipts will amount to Rs. 145 lakhs. (I have adopted the Committee's figure without attempting to verify it). Deducting from this amount collection charges of 20 per cent, irrecoverable dues at 2 per cent and either annuities or interest charges, as the case may be (and assuming for our present purposes that these annuities, or alternatively interest charges will be *near about Rs. 22 lakhs*), the net amount left over for credit to Anchal funds will be Rs. 91 lakhs a year. At present our gross provincial

receipts from land revenue in 12½ lakhs, but we spend on collection of land revenue about Rs. 11½ lakhs. In other words, our net receipts from land revenue are Rs. 41 lakhs. The Committee has, I believe, accepted that the Anchal scheme should be designed in such a way as to ensure a saving of about Rs. 41 lakhs in the Provincial Budget in addition, of course, to the saving of what is now spent on collection of land revenue. This means that for the *additional* activities which the Anchal Sabhas will take up and for the *additional* services which they will render, there will be available a total sum of Rs. 91 lakhs—Rs. 41 lakhs—Rs. 50 lakhs or half a crore of rupees a year. In essence the Anchal scheme is a scheme of decentralisation; and any decentralisation scheme must of necessity entail a certain amount of extra expenditure for which the justification is better and more effective services. It is suggested, however, that the extra cost of decentralisation involved in the scheme should not exceed about half a crore of rupees a year. If it does, then the provincial finances will be affected adversely. Whether therefore the scheme is financially sound and feasible or not will depend on—

- (a) whether savings can be effected in the provincial Budget to the extent to which the Provincial exchequer will sustain loss on account of non accrual of land revenue receipts ; and
- (b) whether the extra cost of decentralisation and of the additional services to rural population which the scheme contem.

plates can be kept within whatever may be left over after setting off these savings against the net proceeds of the land tax and of other taxes and rates which district boards are at present empowered to levy.

“ In the skeleton budget of the Committee it has been indicated that the present expenditure which Government incur on certain services such as medical, public health, agriculture, education and industries will be taken over by the Anchal Sabhas to the extent of Rs. 30,58,000 and in addition the Sabhas will also take over the entire present expenditure of the district and local boards amounting to Rs. 42 lakhs which sum at present includes Government grants to the extent of Rs. 21 lakhs. In other words, it is contemplated that Government will be saved altogether an expenditure of over Rs. 51 lakhs. If the figures given are correct, then it can be readily conceded that the Provincial Budget will get adequate relief. I am, however, not clear about the basis on which the calculations have been made and in particular the figure of Rs. 30,58,000 has been arrived at. On medical, public health, agriculture, industries and education the total sum spent at present from provincial revenues is Rs. 265 lakhs annually and since it is not known up to what level the Anchal authorities would take over these services, it is not possible for me to verify whether the saving of Rs. 30,58,000 shown in the skeleton Budget is correct.”

28. The skeleton Budget referred to in Sreejut Mukharji's memorandum has subsequently been revised
[11—8]

by the Secretary of the Committee in the light of more detailed and closer examination. The revised statements and Budget are given as Appendix V to this report. It is very likely that expert scrutiny will reveal certain items which have not been taken into account and in actual operation the scheme may have some financial consequences which neither our Committee nor the financial experts could foresee. But even if the net or residuary effects of these items and consequences be on the negative side, the crucial margins in our calculations are big enough to cover them. The crucial margins are :—

(1) the margin of savings effected in the Budget of the Provincial Government after setting off the loss on account of non-accrual of land revenue and other receipts ; and

(2) the margin that will be left over after setting off these savings against the net proceeds of the land tax that will accrue to the Anchal Shasans ; or the balance that will be left in the hands of the Anchal Shasans after spending what the Provincial Government and local bodies are spending at the present moment.

Some Administrative Implications.

29. In the administrative field our scheme of local government will mean a readjustment in the ' function and area ' relationship, i.e., the relative positions of the technical superiors of any employee and the general administrator in charge of the area in which he serves. The Rowlands Committee recommended that at the district level—

“ All district development activities should be co-ordinated under a single administrative head (the District Officer). ”

* * * *

“ Heads of District Technical Departments should be the direct subordinates of the District Officer for what they are to do ”

and for actually getting it done ; they should correspond direct with their Headquarters Departments as regards internal administration and technical methods."

At the circle level their recommendation was—

" Local technical officers will be in the same relation to Circle Officer as their district superior will be to their District Officer."

30. Under our scheme, so far as the men serving under the Anchal Shasan are concerned including those whose services have been lent by the Government, they will be wholly subordinate to the Anchal Sarvadhikari ; they should correspond with technical superiors through the Anchal Sarvadhikari and that only about technical matters. The technical officers at the headquarters and in the district can send technical advice and directions direct to the Anchal Sarvadhikari, who will generally accept them but in any case in which he thinks that such advice and direction needs modification on administrative grounds, he should place the matter before the District Officer or the Land Reforms Commissioner according to the status of the technical officer tendering the advice. District and Provincial Technical Officers will have the right to inspect and supervise the work of the Anchal Shasan, which concerns their departments. This recommendation of ours will not be against the present policy of provincialising certain services at the district level. The decentralisation proposed by us and the Rowlands Committee will certainly relieve the technical departments of much of their administrative worries and make it possible for them to devote greater time and attention to the maintenance and improvement of technical standards of work.

CHAPTER VI

Elimination of Intermediaries

What it implies

31. That all intermediary interests between the cultivator and the State should be eliminated was one of the policies laid down for us both by the Orissa Government in their resolution appointing our Committee and by the Nehru Committee. Holders of such intermediary interests may be classified into two broad classes, viz., (1) those above the raiyats, e.g., the zamindars, malguzars, inamdars, Sarbarakars, Makddams, Madhyasatwadhikaris; and (2) such raiyats or raiyatwari pattadars and such persons below these classes as sublet their lands to other cultivators. Both in the Zamindari and Raiyatwari tracts of our Province as elsewhere in India, the intermediaries of the second class are not insignificant in their number or in the extent of lands held by them. So far as the cultivator actually operating the land is concerned, he is certainly much worse off under the second class of intermediaries; because as a tenant at will he is absolutely at the mercy of his landlord. There has been legislation in most of the provinces during the last decade to protect the cultivating tenants under this class of landlords. From the beginning the Committee felt that if the policy of elimination of intermediaries was to be truly implemented in order to create the basis for a general and widespread improvement in standards of cultivation, it could not possibly confine its attention merely to the zamindars or other landlords above the statutory raiyats; the money-lender who purchased all the raiyati holdings in his locality and realised competitive or economic rents from his tenants was a greater burden on the land than the zamindar who realised statutorily controlled rents from his raiyats. But at the same time the Committee realised that any indiscriminate legislation to deal with this class of

intermediaries in the same manner as with the zamindars would be unfair to a very large class of small holders who had been respecting the caste taboo against cultivating the land personally because the existing law permitted subletting of their lands. The Committee's recommendations while effectively preventing the continuance or creation of any such intermediary interest in the future, give a chance to present owners to take the lands under their own cultivation; it has been provided, however, that if any tenants under such landlords have already been protected from eviction by the Orissa Tenants Protection Act, 1948, they will be entitled to acquire occupancy right at a fair and fixed price. The provision for forfeiture of the land in case of failure to cultivate it properly or to observe the rules of good husbandry will prevent any abuse of the landlord's right to take the land under one's own cultivation.

The Nehru Committee has laid down the basic principle which should govern the land tenures of the future after the elimination of the intermediaries :—

“ Land should be held for use and as a source of employment.”

We have not only sought to embody this principle in our scheme but have taken care to provide for a simple ready-at-hand and flexible machinery for the enforcement of the same, in the place of the present complicated and wooden machinery which can always be handled by the crafty and powerful persons much better than the common people.

32. Our scheme of land management by local authorities and Gram Panchayats designed as it is to permanently eliminate all intermediary interests between the cultivator and the community is likely to encounter far less antagonism of the erstwhile owners of those interests than any simple scheme of state acquisition of zamindaris. There will be enough

Scope for the
dispossessed
Intermediaries.

scope in our scheme for that great body of intelligent and resourceful people in the country who, in spite of (or because of) their privileged position as landlords under the present system, have lost the confidence of the people and have in many cases become the objects of popular ill-will, to use their talents for the welfare of the community and the development of the countryside and thereby to regain the confidence and respect of the people. There will be very little of such scope if the present administrative set-up is maintained and the whole business is sought to be done by Government servants. Both in local interest and knowledge and even in working capacity many of these intermediaries may prove superior to the average Government servant engaged in such work and the country can ill afford to waste any talents or human resources at this turning point of its history. We think it will also be a great political blunder if for want of any scope for the employment of their energies in any constructive and beneficial activities the dispossessed intermediaries are practically driven into paths of frustration and desperation.

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CHAPTER VII

The Question of Compensation

33. From the controversies and discussions in the press and on the platform it would appear that the question of compensation to the zamindars and other intermediaries was the most difficult question before the agrarian reformer and that the legal and financial issues were such as to practically block his way for the time being. We are afraid there is a certain amount of confusion and misapprehension in the matter due to, what may be called, the original error of the early British administrators with regard to the property rights of the zamindars. This original error has been vividly described by that eminent authority on the subject in India, Justice Field. In his "Introduction to the Bengal Regulations" he says :—

Some confusion due to the original error of the British.

Field's views

"The collection of the revenue and the tenure of land were so inseparably connected, that the Company's servants, immediately on undertaking the Government, to carry on which the collection of revenue was necessary, were brought face to face with the problem of the tenure of land. To solve this problem was an indispensable preliminary to the introduction of that order and system which are of the essence of British Government. Law, then as now, formed no portion of the liberal education of an Englishman. Even those who studied law as a profession were conversant only with the technicalities of a system, which, so far as it is concerned with land or real property, is perhaps the most technical the world has ever seen. Thus few men possessed, with reference to this particular subject, that breadth of view and comprehensive grasp,

which are derivable from the knowledge of other systems, and may be acquired by the study of comparative jurisprudence. And so it happened that to English gentlemen—possessed of marvellous energy, great ability, the highest honesty of purpose, and spotless integrity, but destitute of that light which alone could have guided them to the truth—fell the task of solving this problem: and the solution appeared to them to depend upon the answer to this question—‘ Who owns the land ?

“These gentlemen had, some of them, estates in England: and those who are themselves possessed of no landed property, had been familiar from their boyhood with the estates of English aristocracy and gentry: and perhaps hoped, as the result of their labours in India, to become owners of similar estates in their own country in the evening of their days. From the point of view suggested by their knowledge and associations, they thought that some class in India must own the land in the same way as English landlords own their estates, and they set themselves to find out who this class were—in fact to answer the question—‘ Who owns the land ? ’ Now the fact really was that no class or members of a class owned the land or any portion of it in the sense in which an Englishman owns his estate; the ideas of property in land were wholly different in the two countries: and there was in India no kind of ownership which corresponded with that aggregate of rights, the highest known to English Law, and which is termed a fee-simple.”

Though this error was discovered and sought to be corrected by later Regulations and enactments, the framework and terminology of the early regulations were kept intact. That is why the ghost of the original error still haunts us.

34. Another more immediate source of confusion has been the adoption of the formula of "state acquisition" of zamindaries by political and legislative circles in recent times. State acquisition of various private interests and concerns has been such a common feature in almost every modern state that it was perhaps thought that the very phrase would ward off all possible constitutional and political objections against abolition of zamindaries. But it will be seen that in actual fact the formula of state acquisition has done just the contrary, it has reared up difficulties where there were none.

The formula of
State
Acquisition—
immediate
source of
confusion

35. It will be seen that our Committee has recommended payment of Malikana in perpetuity to the zamindars and other intermediaries who will be excluded from the possession and management of their estates under our integrated scheme of reforms. This method of dealing with the dispossessed intermediaries is fully in accord with past practices of the British and pre-British governments in India. Even the error of the early British administrators about the so-called ownership rights of the zamindars had not led them to recognise the right of the zamindars to any other kind of compensation when their estates were taken in khas possession or were even farmed out to other private persons.

The formula of
Malikana

36. If this process, procedure or arrangement by which particular zamindari estates of private proprietors could be taken under khas possession by the Government or could even be farmed out to other persons, and the dispossessed private proprietors were to get merely a Malikana, was not considered by

anybody an infringement of property rights or expropriatory in any sense, can there be any justification for such objection with regard to a scheme of integrated reforms for a better management of agricultural lands and for a more efficient execution of development plans, which provides for a complete change in the land revenue system involving the permanent exclusion of all private proprietors equally from the possession and management of all the estates in the province on terms which were even definitely better than those allowed to the individual excluded proprietors by the British Government in India ? It may be noted here that in our scheme, besides allowing the private proprietors to continue in possession of their private lands on raiyati basis, the maximum limit of the scale of malikana has also been raised to 20 per cent of the net income in ordinary cases, to 60 per cent in the case of revenue-free estates and to even 100 per cent in the case of some temples, whereas according to the old practice the excluded proprietor could get either a Malikana up to a maximum of 10 per cent of his private lands but in no case could he expect to get both at the same time.

More liberal treatment on purely political grounds—Rights of property have not grown in value or sanctity.

37. We have proposed a more liberal treatment of the excluded proprietors purely on political grounds. It should not be understood as implying that the property rights of the zamindars have grown in sanctity and inviolability and therefore in value, in course of time since the days of the Bengal or Cuttack Regulations. As a matter of fact, so far as legal and constitutional principles are concerned, the change has been clearly in the opposite direction. The following extracts from Lauterpacht's "International Bill of the Rights of Man" (1945) will be of interest in this connection :—

"It may be convenient to draw attention to four subjects which have not been included in this Draft of a Bill of Rights.

“ *The right of property*—In the first article of the declaration on the rights of man adopted by the Institute of International Law in 1929 it was laid down that ‘it is the duty of every State to grant to every person the equal right to life, liberty, and property. With regard to the latter, that article would appear unobjectionable so long as its intention is to declare it to be the duty of the State to respect on a footing of equality such rights of property as are enjoyed by virtue of the law of the land. To that extent the right of property is protected by the equality clause of Article 7 of the present draft. But in so far as the right of property is conceived as an absolute and inalienable right of man it finds no place in the draft. Deep social and economic changes have intervened since Locke considered property to be the most sacred right of all—so sacred that he explained the rights of personal freedom on the ground that man had a right of property in his person; since Blackstone, who alongside of personal security and personal liberty included the right of property among the three absolute rights ‘inherent in every Englishman’; since the first articles of the Virginia Bill of Rights of 1776, which pointed, as being the inherent rights of man, ‘to enjoyment of life and liberty, with the means of acquiring and possessing property’; and since the French Declaration of the Rights of Man of 1789 described property ‘as an inviolable and sacred right’.

“ That character of sanctity and inviolability has now departed from the right of

property. This is so not only because of the advent of States in which, not private property, but collective ownership of the principal means of production has become the pivot of the economic system. It is so for the reason that private property has tended increasingly to be regarded not only as a right but also as a social function and duty. In States in which private property is the basis of the economic structure, it has become the object of State interference through taxation, death duties, and regulation in pursuance of general welfare, on a scale so wide as to render its inclusion in a fundamental Bill of Rights somewhat artificial. Its protection, to the extent to which it is recognised, must, alongside of other rights, be achieved within the general requirement of equality of treatment."

Position of the
purchasers of
Zamindaries.

38. It is sometimes argued that though we may easily and cheaply do away with the rights of the descendants of the original zamindars who had no property rights even where they had political rights as ruling Chiefs, before the British Government conferred proprietary rights on them, the zamindars who have purchased the estates from the original owners stand on an altogether different footing and should be fully compensated. Here also, facts tell a different story. After the British conquest of Orissa, Commissioner Mr. W. Ewer was asked by the then Government to submit a report on the general state of the district of Cuttack (which included then the other coastal districts of North Orissa). We quote the following few lines from the voluminous report which he wrote in 1818, to give some idea of the actual facts :—

" *Para. 76*—It is indeed difficult to contemplate the unexampled change of property by

public or private sale which has taken place during the twelve years of our possession of this Province, and the fact of the extreme difficulty experienced each year in collecting the amount of public demand with tolerable punctuality without coming to the conclusion that the landholders of Cuttack have all along laboured under some inextricable embarrassments, of which heavy assessment must certainly have been a leading one. Out of upwards of 3,000 Ooriah proprietors, whose names were registered on the first settlement as engaging for the revenues of Cuttack, 1,449 only now remain in possession. * *

The original proprietors, therefore, of lands paying only a jumma of about Rs. 3,00,000 are in possession of their estates at the present moment, when the jumma of the Mogulbundes is Rs. 13,93,000—a statement which evinced strikingly the extensive ruin which had overwhelmed the ancient landed interests of the country under the British administration.”

“ *Para. 90—* * * * * In the second and third years after the extension of the Bengal Regulations to Cuttack, estates paying a jumma of 4½ lakh rupees out of a jumma of Rs. 12,00,000 were sold at public auction for arrears of revenue ; surely any temporary sacrifice of revenue would have been a less evil than the rigorous enforcement of the new code. The inadequate value at which these lands were sold also immensely aggravate the hardship of the measure, and has justly

been termed by the Collector, in his report little better than downright robbery. To omit all mention of other cases, Moonshee Nusseemooddeen alone, the dewan of the gentleman then holding the situation of Collector, purchased in one year at the public auction sales estates paying a jumma of Rs. 53,000 for the sum of Rs. 23,000."

Zamindars and
Rulers of Orissa
States.

39. The Committee considered the customary malikana payment to the zamindars of Orissa on their exclusion from the possession and management of their estates, as appropriate for another historical reason. The permanently settled estates of Orissa were of the same status as the biggest and most important of the erstwhile States of the Eastern Agency before British conquest. It was purely on account of administrative difficulties that the hilly tracts of the Province were treated in a different manner but gradually considerations of political expediency came into play and these killahs in the hilly tracts were given higher and higher political status till, by the time the British left India, they became sovereign Indian States—perhaps the greatest constitutional anomalies of the modern age. The killahs in the plain areas were made permanently settled estates under the Cuttack Regulation. The estate of the Raja of Khurda whose vassals the other chiefs or zamindars were, was to be settled permanently under the said Regulation but was actually taken under khas management and the Raja was given a Malikana allowance.¹ The bigger

¹ Reference; letter No. 8, dated Fort William, the 24th December, 1819 from the Secretary to the Commissioner in Cuttack: "The Governor-General in Council authorises the payment of malikana of 10 per cent on the net collection of the estates from the year 1224 until the Raja shall be restored to the management." Paragraph 194 of Mr. Ewer's report dated the 13th May, 1818, says, "With reference to paragraph 53 of the Resolutions in the Territorial Department, as I do not conceive that any good would be gained by forcing the Raja to engage for

zamindars of the permanently settled estates both in North and South Orissa had all along pleaded with the British Government to be treated like their brother chiefs of the Garjats. We have seen how these latter, who realised their utterly anomalous position after the withdrawal of the British, surrendered their territories and agreed to accept a political pension on the principle of the customary malikana. It will be highly inconsistent if the zamindars are to-day deemed to hold absolute private rights in their estates to the extent that any change in law or the revenue system that would wipe out or adversely affect their present income from the same, would be deemed to involve acquisition of his lands and would be deemed to be immoral, if not unconstitutional, unless there was provision for compensating his loss. Why should not the Rajas of the erstwhile sovereign States, who had been exercising the right of collecting land revenue from their subjects, not on the strength of any law or regulation made by the British but by their own inherent right, be similarly considered entitled to compensation for the loss of income from that source ?

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his estate like a common zamindar, on terms which, according to the best of my judgment, he never could fulfil, I do not recommend that his malikana be diminished with a view to the accomplishment of that object. On the contrary, I beg leave to submit that it be continued at its former rate. Any reduction of the allowances which the Raja of Khurda has been accustomed to receive would appear harsh and cruel in the eyes of the bulk of the population by whom he is so much revered, both as the descendant of their ancient sovereigns and the hierarch of their faith, and would scarcely be consistent with the accustomed liberality and consideration of the British Government with reference both to the rank and the misfortunes of the family of Raja of Khurda. I venture to propose that, as the allowance of Rs. 24,000 is not in reality the malikana of 10 per cent upon the average amount of the annual collections in Khurda (from Rs. 1,10,000 to Rs. 1,15,000), but a liberal salary granted under that name, it be designated hereafter a stipend (including, of course, whatever

Legal aspect
of the Question

40. We do not think there can be any serious doubt in any quarter about the moral and political adequacy of the malikana method of compensation. We have found that all doubts ultimately boil down to questions of law. Let us therefore examine the legal aspect at greater length.

Objections
refuted.

41. It has been seriously contended by some legal advisers that this proposal of ours is in essence nothing but the substitution of the word 'Malikana' for the word 'annuity' merely to avoid the mischief of section 299 (2) of the Government of India Act, as payment of compensation in the form of annuity has been authoritatively held to be not permissible. 'Malikana' is such an old and familiar concept in the field of land revenue administration in India that it does not require any argument to disprove that it has been substituted for the comparatively modern expression 'annuity'. The following extracts from the

claim the Raja may possess to a pension as proprietor of Khurda), and that it has no connection for the future with the actual amount of the collections in Khurda. It appears to me of little importance whether the Raja still possesses a right to be called Zamindar of Khurda or not. Under whatever title he will for ages continue to be revered and respected by the inhabitants of Khurda, as their rightful chief and sovereign, whilst the long settlement which I have suggested either with the Sarbarakars or ryots extended, if it should hereafter be deemed expedient, to a still longer period when the time of its expiration has arrived, would effectually discourage all prospect and expectations of his ever being actually placed over them again in authority, either as their Zamindar, Raja or sovereign."

" Paragraph 195 : Should it, however, be considered by the Hon'ble the Vice-President of Council advisable, with reference to any future comprehensive arrangement for the management of Khurda, to induce the Raja to relinquish formally his claim to that estate, it does not appear to me objectionable on the ground of any just rights vesting in the Raja, to render his compliance the condition of his retaining the allowance of Rs. 24,000 per annum, and to avow an intention, in the event of his refusal, to

Law Lexicon compiled by P. Ramanath Iyer about the term 'Malikana' will be of interest in this connection—

“ *Malikana* is what relates or belongs to a person as master or head man. The *mali-kana* of a *Mocuddam* or head ryot, is a share of each ryot's produce received by him as a customary due. (Fifth Rep.)

Malikana is a right to a portion of the benefits of an estate in consideration of rights which are proprietary (50 Cal. 822=1924 Cal. 197=77 I.C. 707).

Malikana is compensation paid to the proprietor of resumed lands for the loss of his right when the land is farmed. It is distinct from revenue and is governed by different considerations (35 C. W. N. 1233)

Malikana is what is due to the malik or proprietor when deprived of the management of his estates. Annual allowance to deposed Rajahs. (Moore's Malabar Law).

Malikana comes under the definition of 'Land Revenue' given under S. 2 of Act XI of 1859. [31 C. 256=31 I. A. 52=8 C. W. N. 649 (P. C.)]

reduce it to what would really be the Nankur of a zamindar removed from the management of the estate of Khurda, or 10 per cent on the amount of the annual collections. There would be no reason, I should think, to apprehend embarrassment from the Raja's claiming the management of his estate on the terms of a common zamindar, in consequence of this threatened diminution of his means, as his advisers and ministers are well aware that

Raja of Khurda could never fulfil those terms."

Malikana (Ben. N. W. P. an allowance to an ex-proprietor, who is kept out of his estate (refusal of S., etc.) or who has lost it all but this vestige (Bihar); (Bad. Pow. i. 516) (N. W. P.), an allowance to an excluded owner if he refuses the settlement (Bad. Pow. ii. 84) (Pj.) means a rent or fee paid in cash by a tenant to the malik or proprietor—usually calculated at so many annas per rupee of Government Land Revenue : Bad. Pow. ii. 550, note ; 717 note (Sindh); the chief's or over-lord's rent or fee for land-occupation. (Bad. Pow. iii. 327)."

42. The same advisers also argue, "It does not matter if in olden times when a proprietor refused to pay the assessed Malguzar, the management of his estate was taken over by Government and the proprietor was instead paid some malikana. This happened because of the olden days when the revenue administration was yet to evolve and when it was most uncertain whether the holder of an estate was really vested with ownership or the proprietary right in the estate. With the advance of time those ideas have now disappeared and the proprietor of an estate is now vested with tangible right of free disposition of his property in any manner he likes". We have shown in another connexion in this Chapter that the general trend of change in the concept and principle of private property in the modern age is in a direction quite opposite to what is indicated in the above argument.

43. Payment of malikana to excluded proprietors was not only an age-old practice before the British administration but was provided for in the very

Permanent Settlement Regulations which sought to confer proprietary rights on the zamindars¹. Though some of the provisions regarding malikana have since been repealed by later amendments, that

¹ In the year 1878 the Board of Revenue of Lower Provinces submitted a memorandum on the Revenue Administration of the Lower Provinces of Bengal to serve as a manual for reference and Chapter XII of this memorandum deals with this subject of malikana allowances. The first sentence of the chapter gives the definition of the term Malikana: "The term 'MALIKANA' is used in the old regulations to define the payments annually due from Government to those proprietors of the permanent settlement who through their own recusance or other causes, were deprived of the possession and management of their estates". The memorandum continued, "The expression first appears in section 44, Regulation VIII, 1793, which provides that 'proprietors who may finally decline engaging for the jumma proposed to them, and whose lands may consequently be let in farm or held khas, are to receive malikana (an allowance in consideration of their proprietary rights) at the rate of 10 per cent on the Sadr jamma of their lands, if let in farm, or at the same rate on the net collections of their lands if held khas, i.e. on the net amount realised by Government after defraying the malikana as well as all other charges.' This rule with the modification introduced by clause 2, section 5, Regulation VII, 1822, under which the allowance varies from 5 to 10 per cent is still in force and provision is invariably made for the malikana due to the proprietors in settlements of estates, the property of individuals, with other than their owners." The section of the old Regulation (1793) referred to above was subsequently omitted by a later amendment. A reference to old settlement reports of Orissa would reveal that private proprietors were often excluded from the possession and management of their estates or tenures as a result of Government settling the revenue with other persons for administrative convenience or other reasons and that in all such cases a provision for malikana allowances was all that had been made and there had never been even the slightest suggestion of paying compensation to the dispossessed people. An annual allowance of 5 to 10 per cent was considered quite adequate in full satisfaction of his claim as a proprietor. If any person could not prove that he possessed proprietary rights which were both hereditary and transferable he was deprived of even this allowance.

does not affect the constitutional point we are concerned with. Even to-day the provision for payment of malikana to temporarily-settled zamindars is still in force and though the provision is hardly used in recent times, it is interesting to note that there is a specific entry "Malikana or allowances to excluded proprietors" under budget head "7—Land Revenue—e—Assignments and Compensations in every year's budget of the Orissa Government. We do not think there is any fundamental difference in the character of the property rights between those of the temporarily-settled zamindars and the permanently-settled ones. In the light of the ruling of the Federal Court [A. I. R. (31) Fed. Court 62] these two classes of zamindars differ fundamentally in their liabilities but not in their rights. Hence, generally speaking, if a provision for payment of malikana to an excluded proprietor under temporary settlement is adequate under the law, a similar provision should be presumed to be legally adequate in the case of permanently-settled zamindars also.

Provisions in the Government of India Act, 1935, closely examined.

44. But it is quite possible that in this matter the provisions of the Government of India Act, 1935, has been actually so framed as to be in effect contrary to the position taken up by us in this matter. Let us examine closely the relevant section of the Government of India Act, 1935, as it stood before the Independence of India Act, 1935, viz., section 299.

Sec. 299 (1)

45. The first sub-section of sec. 299 lays down in clear terms the general law or fundamental principle on the subject dealt with in the whole section :—

"No person shall be deprived of his property in British India save by the authority of law."

In this general maxim the legislature is given unrestricted power to deprive any person of his property by legislation and there is no mention of

compensation of any kind here. It is only the subsequent sub-sections which provide some form of restrictions on legislation in certain defined cases.

46. Sub-section (2) provides a specific check on legislation for the deprivation of property or expropriation of a particular kind. That is the only provision in the whole of the Constitution Act which raises the question of compensation. This sub-section lays down that—

Sec. 299 (2)

“Neither Legislature shall have power to make any law authorising the compulsory acquisition for public purpose of any land unless the law provides for the payment of compensation.”

The language is clear and unambiguous. Sub-section (1) deals with deprivation of property in the most general manner possible; neither the purpose nor the manner of such deprivation is defined or limited in any way; there is no limitation with regard to the kind of property also. But we find the scope or extent of sub-section (2) limited in all these respects. The result is that the check or restriction provided in sub-section (2) is not applicable to all kinds of legislation authorising deprivation of private property but only to legislation authorising deprivation of particular kinds of property, viz., land or any commercial or industrial undertaking, for a particular purpose and in a particular manner, viz., deprivation by way of compulsory acquisition for public purposes. Another important point to be noted about sub-section (2) of section 299 is that the check provided in it is a judicial check, i.e., any legislation of the given description which does not satisfy the condition laid down in the sub-section can be called in question before a Law Court and declared *ultra vires* of the Legislature.

Sec. 299 (3)

47. Sub-section (3) of section 299 deals with with legislation involving another kind of deprivation of property and the check provided by it is not exercisable by any law court but by the Governor-General. Unlike the previous sub-section which lays down definite conditions which must be fulfilled in order to validate the legislation section 299 (3) does not lay down any such condition but gives power to the Governor-General to hold up any legislation of the given description. The original intention of the framers of these provisions of the Government of India Act, 1935, may be gathered from the following paragraphs of the J. P. C. Report :—

“ We do not attempt to define with precision the scope of the provision we have in mind, the drafting of which will require careful consideration for the reasons we have indicated but we think that it should secure that *legislation ex-propriating or authorising the ex-propriation of the property of particular individuals* should be lawful only if confined to ex-propriation for public purposes and if compensation is determined, either in the first instance or on appeal by some independent *authority*. *General legislation, on the other hand, the effect of which would be to transfer to public ownership some particular class of property, or to extinguish or modify the rights of individuals in it, ought, we think, to require the previous sanction of the Governor-General or Governor (as the case may be) to its introduction ; and in that event he should be directed by his Instrument of Instructions to take into account as a relevant factor the nature of the provisions proposed for compensating those*

whose interests will be adversely affected by the legislations.”

It will be seen that in the actual drafting of the section 299 and of the Instrument of Instructions, all the points mentioned in this paragraph were not secured: it was not provided anywhere that the compensation should be determined by some independent authority; the Governor-General was not asked in the Instrument of Instructions to take into account as a relevant factor the nature of the provision proposed for compensating those whose interests would be adversely affected by the legislation. But the distinction between the two kinds of deprivation of property has been clearly made in the two sub-sections according to the original intention of the J. P. C.

48. The recent constitutional change under the Indian Independence Act has done away with the discretionary powers and special responsibilities of the Governor-General. The Instrument of Instructions issued before this change has also lapsed. So section 299 (3), as it stands now, has lost all its force in so far as it provided for a check on legislation of a certain type to be exercised ultimately by an outside authority, viz., the British Parliament. The only check now available under sub-section (3) of section 299 is exercisable by the Central Cabinet; the Governor-General acting on its advice can refuse to give assent in cases coming under the mischief of this sub-section. But this check will be exercised only on political grounds.

Hence the only question of law that remains to be considered with reference to our legislative proposals is whether they can be held to authorise the compulsory acquisition of any land and hence to come under the mischief of sub-section (2) of section 299. We think that our scheme cannot be held to do either and we give here the grounds for so thinking.

Sec. 299 (2)
does not apply
to our Scheme.

49. First of all we think compulsory acquisition for public purposes mentioned in section 299 (2) can refer only to the property of particular individuals or to some particular class of property belonging to private persons, which would be transferred to public ownership as a result of the legislation; the property acquired must remain in its original form, the legislation providing merely for the transference of ownership of the same. The proposed legislation does not refer either to the property of particular individuals or to any class of property belonging to private persons which the proposed law seeks to transfer to public ownership. The legislation which will clearly fall within the items 13, 21 and 39 of the Provincial Legislative List, instead of acquiring or authorising the acquisition of any class of property for public purposes, seeks to withdraw the attribute of property from certain things in the public interest. The right to a certain proportion of the produce of every plot of land essentially and originally belongs to the State and if for any reasons it had by the Permanent or Temporary Settlements assigned a portion of that revenue to private persons and conferred on them the right to collect the land revenue from the raiyats, and if such alienation or assignment of public revenue had been recognised in law and certain new property rights had thus been created, it is certainly open to the legislature to change the law so as to modify or extinguish those rights. Such modification or extinguishment of private rights cannot be deemed to be compulsory acquisition, and provision for compensation for any loss of income on that account is not a legal necessity, as under section 299 (2), but may be required on political grounds on the strength of section 299 (3). It has been held in a number of cases of Judicial Review in India [Vide A. I. R. (30) 1943, F. C. 33 and A. I. R. (31) 1944. Nagpur, 212] that legislation " which regulates the relations of landlords

and tenants and thereby diminishes the rights which the landlord has hitherto exercised in connection with his land" or which increases the amount of land revenue payable on his estate and thereby interferes with his supposed 'right' to hold the estate at a fixed jumma, does not in any way involve compulsory acquisition of the landlord's rights, however drastic such legislation may be considered to be. There is no doubt about the fact that the legislation which we are recommending will extinguish valuable rights of several classes of people which they are enjoying under the existing laws but there is nothing in that to bring it under the mischief of section 299 (2).

50. Secondly, a study of land revenue settlements in the zamindari areas clearly shows that a distinction has always been made in the case of private proprietors between the proprietary or malikana right and the right to possess and manage the estate accruing from the fact that the Government had made a settlement for land revenue of the estate with the persons concerned, either on a temporary or permanent basis. In calculations at settlements, malikana profits or allowance are distinguished from profits of management and are generally put at or below 10 per cent of the net assets of the estate; and whenever the State, in exercise of its power to make any arrangement it chose for the collection of public revenue and the management of agricultural lands, excluded the zamindar from the possession and management of his estate, no compensation, besides the malikana allowance, was considered necessary. It would appear that what was really a responsibility undertaken by the zamindar to discharge the public revenue for all the lands in his charge and to manage them on behalf of the State came to be mistaken as a right otherwise there could be no question of compensation if the zamindar ceased to get the profits of management on being relieved of his responsibility. As regards

Malikana rights
distinct from
management
rights.

the malikana right, it has been fully recognised in the legislation proposed by us, in that a liberal malikana allowance in perpetuity has been provided and what is much more important, the private proprietors have been allowed to retain the private lands in their own possession.

Provision for
cash compensa-
tion as abun-
dant caution.

51. Though the majority of the Committee held the view that the proposed legislation would not come under the mischief of section 299 (2), we have recommended the inclusion of a provision for cash compensation under section 299 (2) in the proposed legislation, as a measure of abundant caution. We have done so, because the court cannot be consulted prior to the passing of the law and one cannot be sure what view the court will take. It is now for consideration whether the provision for the payment of a nominal amount as compensation will meet the requirements of section 299 (2) of the Government of India Act, 1935, Legal opinion seems to be unanimous on the point that the only requirements of that sub-section are that in all cases covered by it the legislature must expressly consider the question of compensation and determine the amount to be paid or the principles on which such amount should be determined and that it is beyond the competence of any court to go into the question of the adequacy or fairness of such compensation. In view of the fact that the provision for payment of malikana allowance in perpetuity and for allotting the private or Nijchas lands to the zamindars is a fair and liberal method of dealing with the dispossessed or excluded proprietors which meets the requirements of the case, it is our considered opinion that the legislature will be perfectly justified in providing for a nominal compensation as abundant caution, only to satisfy the legal requirement under section 299 (2) for payment in cash.

Financial
aspects.

52. It is rightly believed in financial circles that schemes of acquisition of the zamindaris and other

intermediary interests on payment of cash compensation will create serious financial difficulties for the country, even where the charges can be met from the provincial resources ; they are bound to worsen inflationary conditions as a result of which, even the people, who will get the cash compensation, will be losing in the very process, in so far as the value of not only the money they receive but the money they already possess will go down considerably. The changeover to the new agrarian system, instead of being smooth and agreeable, will be accompanied by an immediate worsening of living conditions. We have already dealt with the necessity of great circumspection in planning a radical reform of the agrarian system. Considering the financial aspect of the problem of compensation in this light, not only does our scheme provide an ideal solution of it but it would appear that the financial considerations in favour of the malikana system are so strong and irresistible that even if all the other considerations set out in this chapter were not adequate in themselves, that system would be preferred to all the other alternative methods of compensation. Adoption of the malikana method in dealing with the intermediaries will, instead of creating any financial difficulties any where, be a positive measure of disinflation. There will be a large increase in the public revenues, which would leave a surplus in the hands of public authorities even after spending more for the public than at present and defraying the malikana charges ; if necessary, the whole of this surplus can be saved in any year and that would mean so much withdrawal of purchasing power from the country ; and on the positive side, it is expected that thanks to the new type of executive machinery provided for in our scheme, there will be an effective rise in agricultural production due to better and more honest utilisation of our resources in men, money and materials.

A positive
measure of
Disinflation.

Perpetua
Malikana
vs.
Cash
Compensation

53. There is one specious argument against our proposal which we wish to forestall before closing this Chapter. It may be said by some people who run away with ideas because they have not got the patience to stop and look closely at a question, that in our solicitude for the dispossessed landholders we propose to perpetuate their parasitic existence and pay them incalculably large sums of money for their properties of limited and disputable value, by providing for them malikana allowances in perpetuity, and that, on the face of it, an outright acquisition on cash payment of compensation will be much cheaper in any case. This is an interesting case of economic illusion. A pays B Rs. 1,000 in cash and takes B's property : if he is just a salaried man or wage-earner or a politician ignorant about worldly affairs, he is sure to consider that a better bargain than if he had to execute an agreement to pay to B Rs. 20 every year in perpetuity for getting the same property. In his calculations he overlooks the simple fact that every sum of money carries a perpetual interest : he does not see that by paying Rs. 1,000 to B he and his successors in interest are losing at least Rs. 20 annually in perpetuity, which he and his successors would have got from the Bank, had he made a fixed deposit of the same amount at 2 per cent and that on the other hand, B and his successors will be getting in perpetuity at least Rs. 20 as annual interest if the money is deposited in a Bank. A little thought will show that if A borrows the Rs. 1,000 at an interest higher than 2 per cent, or if it is his own money, and if he can spend it on the improvement of the same property or of any other undertaking of his own and get a return higher than 2 per cent, the acquisition of the property on cash payment will be a foolish bargain, where the property can be had from B on payment of a malikana of Rs. 20 annually. It may be mentioned here that we have calculated the probable costs of

acquiring the zamindaries of our Province on the lines provided for in the recent Madras and Bihar Acts and have found that they are not lower than even the fully capitalised value of the malikana under our scheme. See Appendix VI).



CHAPTER VIII

What about the Integrated States ?

No difficulty in applying our Schemes to the new areas

54. Our Committee has not made any enquiry specifically about the States that have recently been integrated with the Province. It could not do so without a specific authority and direction from the Provincial Government and without a strengthening of the Committee by the inclusion as such of some representatives of the States. In view of the fact, however, that generally speaking there are hardly any intermediaries with statutory rights between the raiyat and the State in these areas and that till recently each of these States had been administered as autonomous units, the Committee is of the considered opinion that there will be no difficulty in applying our scheme of local Government and land management to these areas without any further enquiry. Tentative proposals have accordingly been formulated by the Committee for the delimitation of Anchals and re-constitution of districts and subdivisions in the whole of the integrated Province. They are shown in the Appendix VII to this report. The introduction of the first stage of our scheme in these erstwhile States will be administratively easier than in the rest of the Province because the Provincial Government has already appointed an Administrator for even the smallest of these units. These Administrators will become the Anchal Sarvadhikaris under our scheme.

On the contrary, it will be advantageous

55. The finances of these new areas are still in a nebulous state but even with the greatest care and economy in handling them, the administration of these undeveloped areas with neglected tribal populations is bound to prove a financial burden on the Province which it can hardly bear without increased taxation or without aid from the Centre. There will be some scope for further taxation in these areas, in the future

if not immediately, only under a scheme like the one recommended by us ; and as regards special grants from the Centre, even if they are received, it will not be possible to secure the full value of them in actual work and services for the people, if they are handled by the existing governmental machinery of the Province, as has been sadly our experience with the Grow More Food Department.



CHAPTER IX

Supplementary Recommendation

56. In the integrated scheme of reforms recommended by us we have sought to give an important place and role to the village communities and to control the individual peasants in the interest of the community as a whole. But it will be seen that the whole scheme has been based on the policy of allowing the land to be operated by the peasants unhindered by any class of intermediary rentiers. In that respect our scheme has been quite conservative in character as it does not seek in any way to disturb anyone who is in cultivating possession of any land. We have refrained from discussing the merits of this policy of controlled peasant proprietorship as against that of large scale collective farming, because the policy was laid down for us both by the resolution of the Provincial Government and the Nehru Committee Report, and because we had no reason to differ in this matter. There is enough scope in our scheme for co-operative farming on a voluntary basis and as a matter of fact several facilities have been provided for co-operative Farming Societies. We believe that the co-operative method will be widely adopted in every field of economic activity including even agriculture, once the local authorities and Gram Panchayats bring the necessary local interest, sympathy, initiative and resourcefulness into the co-operative movement.

57. Social workers and legislators have, however been feeling the need for introducing a measure of compulsion into the co-operative field by legislation, in order that schemes for all round improvement of agriculture involving jointly or publicly operated large scale farming may be effectively executed, at least for purposes of experiment and demonstration. Such legislation has actually been adopted in some provinces including the centrally administered province

of Ajmer-Merwara. It is understood that a very comprehensive Village Improvement Schemes Bill had actually been prepared by the Orissa Government in the Development Department and put up for consideration of the Council of Ministers but that the latter held it over on consideration of practical difficulties in applying the Act in any area. It may be noted that very little advantage has yet been taken of similar laws in Bombay and Ajmer-Merwara. The disinclination of the Orissa Government to sponsor legislation in this matter, appears to be fully justified, in view of the utter inadequacy of the existing governmental machinery for such purposes.

58. But there is no doubt that if the proposed machinery for local government and land management is set up, schemes for improvement of agriculture and allied industries of the village, both intensive and extensive, can be put through, provided the necessary powers are given by legislation. We have, therefore, no hesitation in recommending the adoption of legislation on the lines of the draft Bill (The Orissa Village Improvement Schemes Bill) prepared in the Orissa Secretariat a few years ago with suitable alterations to fit in with our main scheme of reforms.

59. The rough draft Bill is given as Appendix VIII to this report for purposes of reference and we indicate below certain changes that should be made in it :—

(1) The Provincial Board to be called the Land Development Board, should consist of the Agriculture Minister as Chairman, the Land Reforms Commissioner as Secretary, the Chief Conservator of Forests, the Director of Agriculture, the Director of Animal Husbandry, the Chief Engineer, Irrigation and three non-official members.

(2) The Act will come into force in any area in an Anchal as soon as a resolution to that effect is

passed by the Anchal Sabha concerned and approved by the Provincial Government.

(3) It has been provided under clause 10 of the Bill that on expiry of the scheme, the land will be restored to the original owners in the same shape and size of holdings as when it was taken from them but in actual practice it may not be possible or necessary to do so. So a proviso may be added to clause 10 that where the alteration effected is not against the interest of the original owner, he will not be entitled to any compensation.

(4) The Anchal Sarvadhikary will be the Executing Officer.

(5) It may be provided that the land for which a scheme is prepared under the Act need not be taken over under direct management in all cases, and that, when necessary, the owner of the land may be placed under supervision, as under the Agriculture Act, 1947 of the United Kingdom. The Board then may serve on him any directions necessary to make him fulfil his responsibility to farm the land adequately. Such directions to an owner may cover such matters as the provision, repair and maintenance of fixed equipment, including drainage and irrigation works, the cultivation of the land, the management of his livestock, the application of fertilisers. It may be noted in this connection that we have already provided for the enforcement of general rules of good husbandry in our main scheme]. In case of failure to carry out these, directions, the particular items, in respect of which there has been default, may either be executed at the cost of the owner by the order of the Board or the land may be taken under direct management.

(6) There is provision in clause 17 that where, due to any improvement carried out by, or at the cost of, the owner of land, any other person is benefited, the latter will be bound to make a contribution to

the owner as prescribed by the Board. There should be similar provision for recovery of contribution from third parties benefited in cases where the land has been directly taken over by the Board under a scheme and the cost of improvement has been incurred by or under orders of the Board.

(7) Clauses 24 and 26 of the draft should be omitted as all intermediary interests will be eliminated under our main scheme.

(Sd.) Nabakrushna Choudhury--*Chairman*

(Sd.) Bimal Krishna Pal

(Sd.) * Bhairab Chandra Mohanty

(Sd.) * Uma Charan Patnik

(Sd.) * Jagannath Mishra

(Sd.) * Lokanath Mishra

(Sd.) * Girija Sankar Ray

(Sd.) Dinabandhu Sahu

(Sd.) Samuel Das

(Sd.) Rajendra Panda

(Sd.) * Md. Latifur Rahman

(Sd.) * Sarangadhar Das

(Sd.) A. V. Subbarau

(Sd.) R. C. Ratho

(Sd.) * S. N. Bhanja Deo, Raja Sahib of
Kanika

(Sd.) * Lakshminarayan Misra

(Sd.) * R. C. M. Deo, Raja Bahadur of
Khallikote

(Sd.) N. Senapati

(Sd.) U. N. Rath

Secretary

July 7, 1949

* Signed subject to minutes of dissent appended.



सत्यमेव जयते

MINUTES OF DISSENT



सत्यमेव जयते

Note of Dissent by Sri Bhairab Chandra Mahanti, M. L. A.

I differ from the Committee on two points, viz. :—

- (1) the rate of compensation, and
- (2) (a) malikana being paid in perpetuity
(b) rate of malikana

Most of the zamindaris have been paid back both in cash and kind many times the price with which they were purchased. Just a nominal compensation would have been enough.

About the 'malikana' being paid in perpetuity I should say this much that when nothing in this world is permanent how can we recommend the permanence of this "idle-man's" income if I may call 'malikana' like that.

I also should state that the rate of 'malikana' has been high.

However, I trust that the Legislature will do justice to these points when the question comes up before it.

The 23rd July 1949

BHAIRAB CHANDRA MAHANTI



Minute of Dissent by Sri Uma Charan Patnaik, M.A., B.L., M.L.A

I am unable to agree with the majority report on some of the major recommendations and beg to record my Minutes of Dissent thereon. I hope that the Government and the Legislative Assembly of Orissa will give due consideration to the same, while framing the necessary legislative enactments.

On items (2) and (6) of the Terms of Reference—Firstly : I differ from the Committee in its final recommendation for perpetuating the class of Zamindars, relieved of their duties and responsibilities, but paid an annual “malikana” varying from $7\frac{1}{2}$ per cent to 20 per cent of the basic sum (i.e., the average annual gross income of three years deducting 15 per cent towards costs of management). And this “malikana” has been recommended in addition to the lands in their Khas possession a provision which may be used by them as a handle to grab lands in the cultivation of tenants.

This final recommendation of the Committee is in direct contravention of the resolutions passed at its third meeting, as early as October 1947. It may be remembered, in this connection, that the first two meetings held on the 23rd March 1947 and the 15th April 1947 were of an introductory nature and dealt with the questionnaire and other preliminary matters. The circulation of the questionnaire and the contemplated measures in different provinces (where Congress Governments were functioning) had scared the Zamindars who began to denude forests and to lease out even communal lands. Moreover, the third meeting was the first one after the attainment of freedom. It was, therefore, in the fitness of things that the resolutions moved by the Hon'ble Chairman and the Scheme drafted by the then Revenue Commissioner were closely examined and the following resolutions were passed on the 17th October 1947 with only one member (the Raja of Kanika, then the Tikayat Saheb) dissenting :—

- “ 1. Whereas the Committee realises that the legislative and other measures which it is called upon to recommend to the Government under the Government resolution for the reform of the different land tenure and land revenue systems of the Province will be certainly such as to bring about a radical reform of both the land tenure and land revenue systems because the reform has to be with a view, among other things, to eliminate, as far as practicable, all intermediaries between the cultivator and the State and the Committee cannot make recommendations for bringing about this radical reform without careful examination of the evidence and information placed at its disposal ;

And whereas the appointment of the Committee by the aforesaid resolution and the subsequent publication and distribution of the Committee's questionnaire has, unfortunately, resulted in attempts by the different interests concerned in several places to safeguard their private interests by all possible means, incomplete disregard of the future interest of the village, estates or locality as a whole ;

And whereas such tendencies are sure to affect adversely, and to frustrate, to some extent, the reforms that the Government may undertake after the final recommendations of this Committee ;

The Committee recommends to Government that they should, as a preliminary step to any thorough reform and unification of the land tenure and land revenue systems, immediately abolish the Zamindari system in the Province.

2. * * * * *

The Committee is of the opinion that on the abolition of all Zamindaris whether permanently or temporarily-settled, whether paying peishcush or Thakoli, or holding revenue free, legislative measures have to be undertaken to provide mainly for the following :

All Estates (including all communal lands, waste lands, forests and other non-raiyati lands, mines and minerals, protective and irrigation works, fisheries, markets and Hats, ferries and penthoes, shall stand transferred to the Crown and vest in it free of all encumbrances.

The proprietor or any other landholder and any other person whose rights so stand transferred shall only be entitled to compensation in the scale and in the manner to be suggested by the Committee hereafter.

The liability of these persons to pay revenue or local cesses for the estates will cease, but they will be deemed to be raiyats under the Government with respect to the homestead, private, Nijjote, Nijchas or Sir lands which are in their Khas possession and remain liable to pay fair and equitable rents, to be determined by the Collector

All estates and tenures so transferred to the Crown shall be managed by Government according to the system in force for the management of Government estates and Government or raiyatwari villages in the different areas, subject to such rules and instructions as may be framed by the Government from time to time.

The Government may take over the existing staffs of the proprietors whose estates are thus transferred to the Crown on a temporary basis, subject to powers of discharge at short notice."

The next meeting of the Committee was held on the 21st and 22nd November 1947, the detailed Schemes for acquisition of Zamin-daris as prepared by the Revenue Commissioner and the concerned Secretaries were examined and accepted with modifications. The cost of acquisition was calculated at about 5 crores, one-fifth of which was to be paid in cash and the rest in bonds or instalments. The annual additional net income of revenue was also calculated and estimated to be about 1 crore. The interim recommendation and Scheme were submitted to Government and we were given to understand that a Bill was being drafted in accordance with them.

At the 5th, 6th and 7th meetings held in February, March and May 1948 the Committee exhaustively discussed some of the other terms of reference and took final decisions thereon.

At the 8th meeting held on the 9th August 1948 two Schemes, one prepared by the Hon'ble Sri H. K. Mahtab and the other by the Chairman, were placed before the Committee. The premier's Scheme assumed that the abolition of Zamindaris with due compensation was impracticable in the near future, and suggested that the Zamindars should be absolved from the administration of land revenue, management of the estates should be vested in a Committee of local people including the Zamindar, commanding confidence of the people. This Committee was to be in charge of collection of rent and disbursement of the same for nation-building work. This Committee was to be assisted by executive officers lent by Government and Government was to have a general supervisory power over the Committee. The permanently-settled Zamindars were to be put on the same category as the rulers of the Orissa States and their allowances to be calculated more or less on that basis. The temporarily-settled Zamindars were to receive one-fifth of their gross collections.

The Scheme prepared by the Chairman was largely based upon the Janapada Scheme of the Central Provinces, creating an "Anchal" as the unit of administration. The Hon'ble Premier's and the Chairman's Schemes were examined by the Committee and referred for detailed examination to a Sub-Committee consisting of the Chairman, the Secretary, the Revenue Secretary, the Revenue Commissioner, Sri Dinabandhu Sahu, Sri Sarangadhar Das and the Tikayat Saheb of Kanika.

The 9th meeting held on the 20th October 1948 made recommendations on those of the terms of reference that remained unfinished at the end of the 7th meeting.

The 10th meeting held on the 15th, 16th and 17th November 1948 examined the report of the Sub-Committee (which was unanimous but for the dissenting note of the Tikayat Saheb of Kanika). The Committee adopted the Sub-Committee's report, making minor alterations here and there. As suggested by the Chairman, the word "malikana" was substituted for "annuities".

This brief account of the proceedings gives the background in which the final picture emerged, and explains the self-contradictions in the body of the report. It also explains how, having once recommended the abolition of Zamindaris, the Committee, one year later, recommended the perpetuation of a class with no duties and responsibilities, but paid handsomely at the expense of the poor tax-payer.

The Zamindari system is a relic of medieval feudalism introduced by the Britishers for facilitating their strangle-hold over this country and has been working as an instrument of oppression. Notorious for exploiting and rack-renting, it has resulted in neglect of agriculture, denudation of forests, disrepair of irrigation works, uncertainty of tenures ; and has largely contributed to the poverty, indebtedness, misery and consequent discontent among the rural masses.

It is too late in the day to try to perpetuate the Zamindars and to plead for their alleged rights of ownership. Sir Henry Maine in his "Village Communities", Justice Field in his book of Landholding, Sir Thomas Munroe and a host of authorities, as also the history of the East India Company's revenue administration, all go to prove that the Zamindars were foisted upon us in the interests of British rule.

The so-called "rights of administration" were, in fact, "duties" and "responsibilities", which they managed, through their influence and advantageous position, to invest with the semblance of "rights."

The necessity of liquidating this class of parasites has been very strongly felt by all progressive thinkers in the country, and, for the last about two decades it has been one of our major problems. In 1935 to 1938, during the first Congress ministries in the provinces, attempts had been made to tackle this subject, but the autocratic powers of the Governors stood in the way. The Congress Working Committee in its Election Manifesto issued in December 1945 urged that the reform of the land system was urgently needed in India, and pointed out that such reform involved the removal of all intermediaries between the peasant and the State. After assumption of power in 1946, Congress ministries appointed Committees to make recommendations for change in the prevailing land tenure and land revenue systems, on the assumption that all intermediaries between the cultivator and the State were being eliminated. In

Madras the Repeal of the Permanent Settlement and Conversion into Raiyatwari Bill of 1947 was passed, but failed to get the Governor-General's assent. In a slightly modified form, it was passed as the Madras Estates (Abolition and Conversion into Raiyatwari) Act, 1948 and having been duly assented to, it is Act XXVI of 1948. The Bihar State Acquisition of Zamindaries Bill, 1947, was passed in the Legislatures but held up for necessary assent, due to some minor defects. The revised Bihar State Management of Estates and Tenures Bill is now awaiting the Governor's assent. In the United Provinces, the abolition of Zamindaris was decided upon by the Legislature in August 1946 and a Committee was appointed in the same month for making suitable recommendations. As per its suggestions, the United Provinces Zamindari Abolition and Land Revenue Reforms Bill was recently introduced for combining the features of peasant proprietorship, with development of self-Government by village communities, in whom is vested the ownership of common land as well as general powers of land administration and management. Side by side with it, there is the Agricultural Tenants' Acquisition of Privileges Bill, permitting voluntary contributions by tenants to the Zamindari Abolition Fund, whereby, on payment of 10 years' rent, the annual dues will be reduced by half and the tenants will be protected from ejectment.

With a view to implement the Congress Election Manifesto, dated the 19th December 1945, the All-India Congress Committee appointed a Committee on the 17th November 1947 with Hon'ble Pundit Jawaharlal Nehru as the Chairman, to draw up the economic programme for the Congress. The report of this Economic Programme Committee was finalised in January 1948, one of its recommendations being,

“All intermediaries between the tiller and the State should be eliminated and all middlemen should be replaced by non-profit-making agencies such as co-operatives.”

In December 1947, on the suggestion of the Revenue Ministers Conference held in New Delhi, the Congress President appointed the Agrarian Reforms Committee to recommend a reasonably uniform system of agrarian reforms which should come in the wake of the abolition of Zamindaris which was taken for granted.

The Zamindaris must be abolished ; otherwise we will be driving the masses to discontent, despair and a sense of frustration. The political trends in China, Burma and the Far East, where neglect of economic problem is resulting in political happenings, should serve as an eye-opener and warning to us.

Moreover, after the attainment of political freedom in August 1947, the Government of India, with the co-operation of the Provincial administrations, has to strive for economic emancipation of the

masses and for raising their standard of life. This can be achieved only by a planned and co-ordinated development drive. To make this development drive successful, the proper psychological background has to be created. A sense of frustration and the fear that the Zamindari system is being perpetuated are certainly not the atmosphere for carrying out development measures.

Further, it is recognised by one and all, that the antiquated and oppressive systems of land tenures have to be liquidated in the interest of our Grow More Food drive. Appeals from His Excellency the Governor-General and from the Hon'ble Prime Minister of India, may result in similar appeals from Provincial heads and leaders, and will be taken advantage of by the heads of departments to create new posts for overburdening the top-heavy administration; but unless the proper atmosphere is created, unless our election pledges are redeemed, unless the intermediaries are liquidated, our food problems cannot be satisfactorily solved. It is really unfortunate that our imports of wheat, wheat-products, rice and other foodgrains are increasing with rapid strides, keeping pace with the corresponding increase in our Grow More Food expenditure.

As one of the serious objection to the liquidation of intermediaries, we are told that we have to pay heavy compensations^t calculated at the Madras rates for South Orissa Zamindars and at the Bihar rates for North Orissa Zamindars. But in determining equitable compensation, we have not only to ensure a reasonable livelihood to the Zamindars who are being relieved of their duties which had hitherto remunerated them, but also to consider the capacity of the State to shoulder the financial burden involved.

In America where the Fourteenth Amendment to the constitution guarantees "just compensation", the Supreme Court held in *Chicago Railway Company vrs. Chicago*, that the allowance of *one dollar* for the acquisition of the Railway Company's right of way by the City of Chicago was "just compensation."

We have also to remember that according to the Madras Act, the compensation is to be calculated, not on present rental, but on such rental as may be found due after the completion of settlement operations equalising rents in Zamindaris with those in adjacent raiyatwari tracts.

Judged by these standards, the rates of compensation recommended at the 4th meeting were very high, but they had to be adopted in accordance with the views of the majority of members. But even then, it was considered possible to pay the same in instalments and the estimated increase in annual revenues accruing to the State was calculated to be about a crore of rupees. To avoid inflation, it was suggested that the instalments could be paid through self-liquidating bearer-bonds. The Zamindars may also be induced to

invest in State-controlled industrial concerns. The United Province experiment of Zamindari Abolition Fund might also be tried here successfully, if only we could create the necessary atmosphere.

Secondly : I object to the proposed 'malikana' fixed for the Zamindars in perpetuity. The Zamindars are allowed to possess their "private" lands and, in addition, to be paid as annual "malikana" (Malik's or proprietor's right) varying from 20 percent of the basic sum on small incomes to $7\frac{1}{2}$ per cent in the case of large estates with an annual income of over Rs. 5,00,000. This again is to be calculated on the average gross income of three years, deducting only 15 per cent towards the cost of management. The committee's report in Chapter VII as well as elsewhere and its resolutions at various sittings have disproved the Zamindars' alleged rights. It is strange that in spite of the same, the committee allows the Zamindars fabulous sums in perpetuity at the expense of the State. According to the prevailing practice, Zamindars deprived of the management of their estates, are being given "malikana" varying between 5 to 10 per cent. The Raja of Khurda was given special and preferential treatment when he was allowed a malikana of about 10 per cent. The Raja of Ghumsur, Mohuri (Berhampur taluk) were practically given nothing. In these circumstances, this malikana proposed in perpetuity, together with private lands, etc., of the Zamindars, is an absurdity. It may also be noted that some of the Zamindars are claiming as private land or *Heta*, thousands of acres of land in the cultivation of tenants.

I am sure that public opinion in the country will one day rise against this proposed unconscionable rate of 'malikana' and make suitable laws to stop it altogether. But I am afraid that our favourable treatment of the Zamindar will create administrative difficulties in the present and vitiate the atmosphere, so as to stand in the way of the development of national resources.

Thirdly : With regard to religious and charitable endowments, the original resolution at the 4th meeting reads as follows :—

"The existing trustees of public charitable and religious obviously be endowments constituting estates or tenures, will entitled to no compensation and the State, which will be the only trustee, must provide for carrying out the objects of the trust where necessary, by provision of annuities."

That was changed in the present scheme where it is laid down in X- I (c) :—

"In regard to estates of religious and charitable endowments like the Temple of Jagannath, the full amount of the present net income may be paid as malikana if the Provincial Government are satisfied that it is necessary for the fulfilment of the object of the trust."

I have no objection to place the two public temples of All-India importance—Jagannath at Puri and Lingaraj at Bhupaneswar—on a special footing, but to include every charitable and religious endowment in this category is to encourage the Mahants to run after the persons in authority and to embarrass them. I may here add that in other provinces similar endowments have been made to serve their real purpose, e.g., the Tirupathi Devasthanam Act (XIII) of 1944 (Madras) whereby the temple's funds are financing a first grade College and an up-to-date Hospital. The Thirumalai Devasthanam Act (XIX) of 1933, the Tanjore Chhatram Endowment Act (VIII) of 1942 and other enactments have made similar provisions. On the other hand, in Orissa, our *muths* are mostly abused and their properties either removed to the distant homes of the Mahants or squandered on nefarious objects. I have often suggested that these Mahants should be dealt with a strong hand, and their misconduct and non-maintenance of accounts strongly penalised. If only we could do so, the Utkal University, the various educational institutions and the Public Health and Medical Departments of the Province could be efficiently run. In any case, to give the Mahants an opportunity to defeat the purposes of the trust by enlisting the support of persons in authority, is highly undesirable and is bound to have a demoralising effect.

I am also of opinion that Inam estates and revenue-free estates should not be given such exorbitant amounts as 40 to 60 per cent on the basic sum.

Fourthly : The Committee, in my humble opinion, erred in going back upon its previous resolution at the 6th meeting wherein it had limited the maximum holding to 33 acres wet, or 66 acres rainfed or 100 acres dry, or alternatively, 5, 10 and 15 acres respectively per member in a joint family (whichever is greater); this upper limit being subject to a proviso that it might be raised in any special case where the District Collector is satisfied (as per rules to be framed by Provincial Government) that "large scale farming has been undertaken on a co-operative basis or otherwise, by the use of power-driven mechanical appliances or adoption of advanced methods of cultivation". This maximum limit of holdings has been dropped after the Sub-Committee's report. When it is proposed to dispossess small peasants of uneconomic holdings, it is highly undesirable to allow richer ones and zamindars to possess thousands of acres, thereby encouraging the re-emergence of new intermediaries or revival of the old ones in a new form.

It has been argued that the restrictions suggested regarding sub-letting will be a sufficient safeguard against the danger. But, on the other hand, sub-clause (XXII) of clause IX of Chapter III of the report provides scope for non-cultivating holders to claim that they are actually in cultivation through servants paid in cash or

kind or that some member of their family is looking after cultivation through hired labour. This is in direct contravention, not only of the accepted All-India policy, but also of our own previous decision.

On item (5) of the terms of reference—Firstly : I must state that the Committee should have gone into the special features of the land reforms in the partially-excluded areas which constitute the major part of the Province. Even apart from the recently merged States (which have a predominantly aboriginal population) Orissa proper has such areas covering 20,548 square miles out of the total extent of 32,198 sq. miles ; it had an aboriginal population of 17,21,006 in a total population of 87,28,544. Orissa today with the States, has a tribal population of 35,09,454, being the third Indian Province with a predominantly large tribal population.

The land tenure systems in these partially-excluded areas are widely divergent in nature. The highly undesirable method of *podu* cultivation (*i.e.*, by cutting the trees and shrub jungle growth and setting fire to the same on the land, before ploughing) has to be discontinued. The pernicious and oppressive "Mamools" as well as the system of "Vetty" (free labour) have to be abolished. The partially-excluded area Committee of Orissa (Thakkar Committee) appointed by the first Congress Ministry had, in 1940, made certain valuable recommendations and suggested suitable machineries for examining the problems. I hope that our popular government realises the urgency and importance of these problems in the hill tracts and takes immediate steps to improve the condition of the hill tribes.

In these uplands of Orissa, there are immense possibilities for agricultural development. Extensive cultivable waste lands, virgin soil, scope for constructing cheap irrigation works, etc., indicate a great agricultural future for these areas, which, it is for Government to utilise, according to plan, in the interests of the Country.

In this connection, I take the liberty of enclosing herewith a copy of my note on the "Aboriginals of India" (being my Presidential address at the Aboriginal Education Section of the last All-India Educational Conference held in Mysore). I had submitted copies to all the persons in authority and departmental heads in this Province, humbly hoping that it might be some help to them in their development schemes in aboriginal tracts ; but as I did not receive any acknowledgment from them I submit a copy herewith, through this Committee, so that it may stand some chance of being examined, in the interests of the Country.

Secondly : I must confess that although Orissa is mainly an agricultural province, there are tremendous possibilities for expansion of industries especially those allied with agriculture. America

which started with only an agricultural economy, has built up her industries basing them originally upon agriculture. Industries have to be organized, not merely to increase the national wealth and raise the standards of life especially of the cultivating classes who form the main bulk of our population, but also for relieving the growing pressure upon land and assuring the fullest employment to agricultural labour. It is unfortunate that this Province has had no economic or industrial survey. There has been absolutely no industrial or economic planning and, what is worse, the necessary direction and co-ordination is also wanting.

In this connection, while congratulating the Committee for having accepted and improved upon the suggestions of Rowlands Committee (Bengal Administration Enquiry Committee of 1944-45) with a view to increase efficiency and to prevent corruptions in the services, I must point out that "the proof of the pudding is in the eating thereof." Our top-ranking leaders in this province believe that there is no inefficiency or corruption in the services. There is a premium on corruption, when high dignitaries partake of the hospitality of corrupt subordinates. I would, therefore, suggest the addition to the list of corrupt practices, the acceptance of invitation of departmental subordinates for food or shelter.

I would also point out that the prevailing corruption in this Province is largely due to industrial enterprises and controlled commodities. It should, therefore, be made obligatory for every member of the regular services or any member of the Cabinet or of the Legislative Assembly to disclose if he has any interest in any industrial or commercial concern or dealership in any controlled commodity either in his own name or in the name of any other member of his family. Any clique or combination of persons in authority remaining in the background and operating through others, must be detected and penalised; else our services will get demoralised and our public life vitiated. The Board of Industries must be recognized and all members who have financial interest either directly or indirectly in any application for State-aid, must be removed therefrom after suitably amending the State-Aid to Industries Act.

Thirdly: I would point out that the Nehru Committee has recommended that the present land revenue system be replaced by progressive taxation of agricultural incomes. In our province the scale of agricultural income-tax is of the mildest nature. We were told at the time when it was being examined that the provisions were intended to arouse the minimum opposition and that, in due course, there would be suitable enhancement. I hope Government will take early steps to revise the rates as well as the exemptions provided in the Act.

Fourthly : Labour conditions have to be improved, agricultural labour has to be organised and minimum wages fixed, debts of agriculturists scaled down and those of agricultural labourers, completely wiped out.

Fifthly : Our available cultivable waste (estimated at about 55 lakhs of acres) has to be reclaimed. It can be done either through State-aided and mechanised collective farms or by giving necessary help to peasant proprietors, organised on a co-operative basis. Revenue remissions may also be assured to them for a certain period. Experimental State farms as in Sukinda could be started at different places, where tractor-cultivation and up-to-date methods could profitably be employed.

In conclusion : I may be permitted to add that the comparatively peaceful atmosphere of Orissa, the absence of communal troubles (due to the very small numbers of minority population), the vast untapped resources that have remained unexploited because different parts had hitherto existed at the tail-end of neighbouring Provinces, provide us with ample scope for development. But real and effective development measures pre-suppose a reorientation of our outlook, whether we be officials or non-officials.

As an example of our outlook I may be excused for referring to a personal matter. I had prepared two schemes—one was for the reorganisation of our entire man-power through a nation-wide volunteer organisation for development of Agriculture and Industries, side by side with training for national defence and internal security ; the other was for the planned development of a certain lake and its surroundings for agricultural and industrial development along with defence. I never claimed that the schemes were perfect ; I only wanted them to be examined by the provincial and Central Governments and utilised for our common-weal if there was anything useful therein. I sent copies thereof to the various departments. As I did not get any response, I got them printed at some cost and sent copies by registered post to every concerned person in authority and to head of almost every department in the Province and at the Centre. I regret to confess that not a single acknowledgment (except the postal registered acknowledgment) was received from any one in this Province, except His Excellency the Governor, the Honourable Speaker, the Honourable Revenue Minister and the Honourable Minister, Backward classes Welfare Department. None of the departmental heads even cared to send a reply. The concerned departments of the Central Government have taken a keen interest in the Schemes submitted by me and their interest been an encouragement to me to carry on with the self-imposed task of thinking in terms of my Country. I appeal to the various

departments of our provincial Government to adjust themselves to the present set up of things and to think in terms of our country's industrial and agricultural development whereby alone can "*Poorna Swaraj*" or "*Krishak Majdoor Proja. Raj*" envisaged by our leaders, be realised.

As to other matters referred to in the Terms of Reference I agree with the Committee that the reports of the Nehru Committee and the Agrarian Reforms Committee be taken up by the authorities and details worked out to suit Orissa's conditions in accordance therewith.

Jai Hind

BERHAMPUR

The 17th July 1949.

UMA CHARAN PATNAIK, M.L.A.

(Member, Land Revenue and Land
Tennure Committee)



Note of Dissent by Sri Jagannath Misra, M. L. A.

While thanking the Committee for having evolved a scheme for decentralising the Land Revenue system and thus providing the people with more democratic right and chance to manage their own affairs, I regret to have to express my disapproval of certain recommendations of the Committee on some very important subjects.

The Committee had proceeded on right lines when as early as October 1947 it recommended, as an interim measure, the immediate abolition of the Zamindaris system with provisions to compensate the dispossessed Zamindars. But for its recommendation for a very high rate of compensation beyond the means of the Province, I am in agreement with the said resolution although at the time when it was passed I did not have the privilege of being on the Committee.

The Committee however erred in calculating the compensation at the rates fixed by the Madras Government for the Zamindaris of South Orissa and by the Bihar Government for those of North Orissa. One fails to understand why the people of Orissa—the poorest in India—should be required to pay compensation at the rates fixed by the provinces of Bihar and Madras whose financial status is decidedly superior to that of ours, and that too for a class of undesirable exploiters. Compensation to be fair and equitable should take into consideration not only the rights of the dispossessed person, but also the ability of the person required to pay. The amount of compensation should be such as could be borne by the people without seriously crippling their economic position.

Instead, the Committee has recommended malikana to be paid in perpetuity to the dispossessed Zamindars at an exorbitant and unconscionable rate. It is really surprising that the Committee, while strongly denouncing the Zamindars as an unnecessary class in the society provided very lavishly for perpetrating a class of parasites with absolutely no duties and responsibilities. The Committee strongly refutes the claims of the Zamindars to the ownership of their estates and successfully proves that Zamindars are mere rent collectors entitled to no compensation when relieved of their duties; at the same time it provides 'Malikana' to be paid in perpetuity as in the case of feudatory States. Not only that, where as according to the prevailing practice whosoever gets Malikana is not entitled to Khas land for private cultivation; the report provides huge sums as Malikana in cash and unlimited Khas land (if the Zamindar so chosed). This, in my opinion, is extravagant charity at the expense of the hungry and ill-clad millions.

In this connection it may not be out of place to mention that after I was taken into the Committee a year and a half after its

formation I made a last-minute attempt to lower the rates of compensation varying from 20 to 7½ per cent to 15 to 5 per cent which was unfortunately defeated by the casting vote of the chair.

The second point on which I humbly disagree with the Committee is that while the Committee in one of its earlier sittings resolved, that as regards the extent of land that a person or family may possess, a certain maximum limit should be fixed (the limit so fixed being 33 acres of wet, 66 acres of rain-fed and 100 acres of dry land) it was subsequently omitted on the ground, that since the Committee proposes to prohibit Bhagchas or subletting there was no necessity for fixing such a maximum limit.

The provision for allowing a person to possess and cultivate land on a large scale basis subject to the only condition, that he should do so with the previous permission of the Collector, was there in the earlier proposal of the Committee. The scrapping of the maximum limit enables one to continue to possess thousands of acres on the plea of large-scale farming, and unless it is proved that he is subletting which, by the way, is rather difficult to prove, there is none to question him as to what he does or does not do with his large extent of land. I may also be permitted to add that while the Committee provides for fixing a minimum limit to holdings below which it would be uneconomic, and restricts the sale and purchase of such holdings by various conditions, and incidentally forces the owners of the small holdings, indirectly, to part with their land, there is absolutely no check over the big owners to continue as before.

The third point on which I cannot agree with the Committee is that, regarding the charitable and religious endowments. It is proposed to pay them annually to the extent of 100 per cent of their net income. It is common experience that there are endowments, charitable and religious, which own enormous landed property the income from most of which is spent in such a way, that it is nothing short of a huge public waste in the national economy. In my opinion it is highly undesirable to lavishly provide for the continuance of Institutions which have absolutely no regard for national interest and out of place in the present set up of things.

The 16th July 1949.

JAGANNATH MISRA, M.L.A.

Note of Dissent by Sri Lokanath Misra, M.A., B.L., M.L.A.

1. I am fundamentally and in essence in agreement with the report. So far as the basic principles are concerned our decisions are a distinct achievement, nullifying the error of ages and dispelling a ghastly illusion nursed during the British regime that the Zamindars are the owners and the proprietors of the lands they were allowed to control. Land is Nature's bounty and belongs to the people i.e., the community and belongs neither to any individual, nor to the Zamindars, nor even to the State; for, the latter too are after-growths and the individual, so far as the objective world is concerned, is a part and subject to the demands of social well-being.

2. Once this position is accepted, elimination of all intermediary interests, interfering between the community and the State is but a necessary and timely weeding out. Such elimination of the misappropriators is in no sense an expropriation. This may sound a little too, rude in the present context when the industrialist and people of other trades and calling claim a right to exploit the community in the name of free enterprise and individual liberty. Sooner or later this problem too has got to be tackled. In eliminating the landed intermediaries only a beginning is made.

3. Now the question is—Have these intermediaries any unconditional right to any sort of compensation or do they even deserve any annuity or allowance, by whatever name it may go, on their elimination? To my mind, legally and as of right, they have no such claim. As of right, certainly not. In law which is made and unmade on the exigencies of time and circumstances, the question may appear somewhat legitimate. The question has been anticipated and ably discussed in Chapter VII of the report, named 'The question of compensation', and answered in the negative. Logically, therefore there should have been no provision for any kind of payment to those who have been sought to be 'excluded from the possession and management of their estates.' The Committee has come to the conclusion that the estates were in no sense theirs. They were in possession of the lands only for management. This was a mere political expediency, unconnected with any right and if there was any semblance of a right, it was a mere fiction.

4. One would therefore, be surprised to find this fulsome provision for Malikana to dispossessed and excluded proprietors. The word Malikana is a misnomer. Any payment, therefore, to such people may come as an act of grace and kindly fellow-feeling. This I do not grudge. Judged from this standpoint, the scheme is unsound and the percentage is excessive. I should suggest the substitution of 12, 11, 10, 9, 8, 7, 4 and $2\frac{1}{2}$ for the percentages given in the report, i.e. 20, 19, 18, 17, 16, 15, 10 and $7\frac{1}{2}$ and in place of the proviso

that no estate will get less Malikana on account of its higher income, another proviso should indicate the following conditions attached to any such payments. The conditions are—

- (i) The amount so paid must be utilised for the proper cultivation of the private and Nijchas lands that may now be allotted to them under the scheme.
- (ii) Besides the provision made in X(i) (e), the way the estate was acquired and the price paid for such acquisition should be taken into consideration in fixing the Malikana and any estate found to have been acquired unfairly or at an unfair price should forfeit the whole or a part of the payment to its holder.
- (iii) Absentee landlords must not be dealt with at a par with active landlords attached to the soil.

5. I now refer to the question of compensation. Before coming to the merits of the question, it is to be remembered that the 'excluded or the dispossessed proprietors, i.e., the intermediaries have not been ousted from their private lands and no limit has been put to their acreage. They will be in possession of those lands like any other cultivating raiyat. But interested people may not find their satisfaction in this generous provision for an ideal and healthy occupation for them. This will be unfortunate. They may yet pin their faith in some existing laws. Section 299 of the Government of India Act, 1935 or article 24 in the Draft Constitution may appear to come to their aid. But once the authority of law swings against them, their case is gone. In the present arrangement, there is neither 'any deprivation of property' nor 'any compulsory' acquisition for public purpose of any land. There is just a discovery that what so long was assumed to be 'property' was in fact no property. Property, as it is, goes to the actual proprietor, the community. Here the State or the Government does not step into the shoes of the so-called proprietor. The whole character of this sort of arrogated right changes and changes for all. There is, therefore, no need for 'abundant caution.' This phrase smacks of weakness. There need be no fear for the lawyer or the judge. The judiciary should not be expected to be deceived by mere caution. That will be honest for nobody. If the law of the land proves so obstinate and compensates the wrong-doer, the courts must enforce it in all completeness and we must abide by it and then agitate. Therefore a mere provision of 'one rupee compensation' will not serve the purpose. It would rather give a clue to the claimant that here is a recognition of his right. A scant recognition of the same will only disfigure the statute book. I, therefore, plead for the deletion of this 'abundant caution provision'.

6. I do not also see any justification for any special provision for religious and charitable Endowments. To grant their estates a Malikana 'equal to the full amount of the present net income' is, therefore, misleading. Is it meant that the cultivators of these estates will have to pay more than fellow-cultivators of other estates? And are the Anchal Shasans having jurisdiction over these estates expected to shoulder a heavier liability? Of course 'the total sum representing the Malikana will be the first charge on the revenue of the Anchal authorities in proportion to their gross income,' which may mean, if this concession is granted in favour of the endowments, all the Anchal authorities will have to contribute to make up the balance to bring out the full amount due on 'the present net income' of the Endowments. Is it not then better to say that the Province as a whole, i.e., the Provincial Government should make up the deficit as may be found necessary for the proper maintenance of these Endowments, instead of saddling them on the Anchal Shasans alone?

7. Sub-letting has been prohibited except in case of widows, minors, idiots, lunatics, invalids and the blind, convicts in jail or persons in the Defence Services of the Country. I do not see any reason why convicts should come under the exception. They should be left to their 'karma' and then only it may act as a check on the miscreant. Even in other cases no exception need be made at the cost of some confusion. The best course should be to entrust the Panchayat Sabha or the Anchal Shasan with the cultivation of their lands, the proceeds of which will in due course be available to them.

8. Lastly, I have to speak a word about the 'Integrated scheme' as such. It is a great venture and lays claim to all the enterprise that our rural population is capable of. It involves no small risk also. The nerve-centre of the scheme is the Commissioner of Land Reforms and the veins and the arteries are the Anchal Sarvadhikaris. They will be officials. They have to be schooled or trained to school and train our rural population, so that both may fit into the scheme—in every sense a normal one. I suppose the scheme is not merely a political device against 'the most enthusiastic soldiers, if not leaders in such a crusade against the Government, on the abolition of Zamin-dari system.' We sincerely hope that no trouble will come from those quarters. The difficulty may be found somewhere else. The scheme to succeed needs great vigilance, persistent education and above all human sympathy. Real danger is in the ideal. If the officials do not make it their cause and be un-prepared to sacrifice their old ideas of distinguished living, people will not be inspired to work out the experiment to their common good. The scheme may then lead more to extravagance and confusion and disorder and less to the construction that we all envisage. We envisage a community life and no hard-dictation. The scheme, as delineated does not go so far and perhaps could not go further. Superficially

it appears to be a new revenue system. But this and the Gram Panchayat Act may join hands and work together in unison and gradually gather round them more power and prestige, necessary to cover and build the entire life of their constituents. I even presume that the two may now be put to a new mould and energised. But the urge has yet to come. Even piece by piece let us go ahead and see how we do. With these remarks I sign the report and thank the Chairman of our Committee who has given it the shape and the substance.

The 13th July 1949

LOKANATH MISRA



Note of Dissent by Sri Girija Sankar Ray, M.A., B.L.

1. *Assessment of Dhulibhag lands in North Orissa (page 34 X(i).(a) of report)*—As I had occasion to point out in a note which I placed before the Committee, the lands in North Orissa for which kind rent is paid either on Dhulibhag or Sanja basis stand on a different footing from similar lands in South Orissa and so, even where an occupancy right has accrued to the cultivator, to assess them at the prevailing cash rent and pay a Malikana of 20 percent to the owners out of such assessed rent would be manifestly unfair. In South Orissa, theoretically all lands in an estate belong to the proprietor so that any occupancy right which the tenant in any part of the estate could obtain would be on a crop-sharing basis which could be commuted to very high cash rent at prevailing prices of crops. Even where the tenant was occupying a piece of land which he had developed by his own labour or resources, the only right that could accrue to him was that of a crop-sharer. There was thus a fundamental difference in the status of the cultivator and the quantity of rent payable by him between the Zamindari and Raiyatwari areas of the ex-Madras estates leading to several legislative enactments to put the occupancy raiyat on a more equitable position. The rent had to be drastically reduced where the cultivator had acquired an occupancy right over estate lands to bring him at a par with the cultivator in the Raiyatwari area.

In North Orissa, however, except in the Aul Estate, the system in vogue was that the estate was divided practically into two parts—the major part containing practically 90 per cent of the lands comprised in the estate, was held by the cultivators with occupancy rights on low cash rents assessed from time to time by the Government at a rate of about 1/6th of the net value of the produce. In some estates the cash rent is much lower than this rate, in some parts of Orissa it is as low as Rs. 0-6-0 to Re. 0-8-0 per acre. A small fragment of the estate containing at the maximum of about 10 per cent of the estate was held as private lands by the proprietor. These lands consisted of (a) lands reserved for the maintenance of the proprietor over which tenancy rights could not accrue, (b) lands originally waste but developed by the proprietor by his own resources and labour and (c) lands originally belonging to a tenant-cultivator but later purchased and acquired by the proprietor. These were manifestly private lands and only small estate-holders or local proprietors cared to have such lands because absentee landlords generally found it less troublesome to collect cash rent than to encourage, acquire and manage cultivating rights. As I have said above only about 10 per cent of lands in an estate were private lands of the above three categories, the percentage, however, varying from estate to estate and being higher in the estates of local proprietors.

These private lands were ordinarily cultivated on a crop-sharing or contract kind-rent basis and this was a recognised and well-established mode of land cultivation. The question of acquisition of occupancy rights for such lands never arose, and even when occupancy right was conceded it was only a protection against ejection, not a means of commutation of kind rent to cash rent. After the Orissa Tenancy Act of 1913 in which the principle of commutation was introduced, strenuous efforts were made in 1927 during the settlement operation in North Orissa to record such lands as Dhulibhag or Sanja in the names of the cultivating tenants invested with occupancy rights. In most cases however, because the cultivating tenant clearly recognised that he was putting in labour for his half share of produce, the cultivators did not come forward to have their names so recorded and even when they were so recorded in a majority of cases they applied to the Settlement authorities to correct the records by deleting their names. Many explanations have been given for this, but one explanation certainly is that cultivation on a cropsharing or contract kind-rent basis was a well known and longstanding social custom accepted and recognised by both parties as a fair and equitable method of appraisal of produce on land belonging to one but cultivated by another. The big estates or estates in the hands of powerful mahajans successfully resisted the attempts made by the Settlement officers to enter the names of the cropsharers in the records (vide Settlement report on the Utikan Estate) and only in the case of small estates held by weak proprietors such as widows, small endowments, etc. a part of the private lands held by them was recorded as Dhulibhag or Sanja held by raiyats with occupancy rights. The proprietors were reconciled to this because being weak they could not resist and specially because they had a protection under Section 47 of the Orissa Tenancy Act which was considered adequate, and the cultivators also never thought in terms of commutation which was recognised as being against a long standing equitable custom. This latter is evidenced by the fact that only in about one per cent of cases where occupancy rights in terms of produce rent (Dhulibhag or Sanja) had been recorded, commutation was applied for either during the Settlement operations or within 25 years that has elapsed thereafter. The cropshare continues to be paid as a matter of course in all other cases, whether there is a record of occupancy right or not.

In North Orissa, it will thus be seen that (1) only a very minute part of the estate was recorded as Dhulibhag or Sanja with occupancy right (2) only the private lands of the proprietors, mainly maintenance lands or lands purchased by them were so affected (3) mainly the small proprietors and weak owners who depend upon these lands for bare subsistence are so affected (4) the record of occupancy right in Dhulibhag or Sanja lands was recognised merely as giving a protection against ejection to the tenant, while the

proprietor was protected by the exceptions enumerated in the proviso to section 47 of the Orissa Tenancy Act, (5) there are not only Dhulibhag or Sanja raiyats with occupancy rights under proprietors of estates but also Dhulibhag or Sanja under-raiyats under recorded raiyats and these Dhulibhag or Sanja under-raiyats have no occupancy rights although they are recorded as holding the lands on produce rent (6) Apart from the fact that some Dhulibhag or Sanja cultivators are recorded either as possessing occupancy rights or not according to the status of the persons under whom they hold nearly 20 per cent of the total lands under cultivation are at present sublet on cropsharing or contract produce terms to cultivating raiyats whose names do not appear under the records but who have in some cases been protected from ejectment under recent legislation.

The effect of assessing Dhulibhag or Sanja lands as under page 34, X (i) (a) of the report will be that (1) where a proprietor is now getting one bharan of paddy, as produce rent, valued at Rs. 40 at the present rates and at about Rs. 10 at pre-war rates from one acre of land, such land will be assessed at Rs. 1-8-0 to Rs. 3-0-0 per acre according to prevailing cash rent in different areas and out of this a malikana of Re. 0-5-0 to Re. 0-8-0 will be payable to the proprietors of the estates thus bringing down their annual income from Rs. 40-0-0 to annas eight only. The effect of this on the small holders, widows and others who will be mainly affected and who depend on the produce of these lands for subsistence may easily be contemplated. 2) An invidious distinction between one class of holders of land on produce rent and another, as also between the landlords of these lands will be made in as much as whereas in one case the lands will be assessed at prevailing cash rent of say Rs. 1-8-0 to Rs. 3-0-0, the proprietors getting an annual malikana of annas five to annas eight in the other case the cultivators will be forced to pay the value of the land at 4 times the annual gross produce to acquire any right and even this right will be extinguished if the option to pay is not exercised within 3 years, the proprietors thus getting a decent sum as value of their land which will work out at about Rs. 200 to Rs. 300 per acre.

I therefore propose that for North Orissa, except for the estate of Aul where Dhulibhag had been recorded on a different basis, the malikana payable to the proprietor zamindar or intermediary for all Dhulibhag or Sanja lands where the cultivating tenants have been recorded as having possessed occupancy rights should be fixed at Rs. 7-8-0 per acre for the first five acres of such land comprised within the estate and Rs. 5-0-0 per acre for the next five acres of such land. For all lands over and above 10 acres of such land within an estate the present proposals of the Committee as embodied in the report may be accepted.

2. *Sub-letting*—Every body is agreed in principle that sub-letting of land on a cropsharing or contract basis should be abolished and even penalised by forfeiture of land. In the report exception has been made in favour of widows etc. temporarily and in favour of temples like the temple of Jagannath permanently. I have only to point out that on the one hand the provision for labour being paid in kind (page 27, XXII of the report) and on the other hand the exceptions provided above may defeat the whole clause regarding sub-letting (page 26, XX of the report). Payment in kind may easily be converted into a contract payment out of produce recognisable by the Civil Courts as wages instead of crop-share and on such a construction sub-letting may be resorted to in contravention of the provision against same. The incentive to contravene the law will come from the powerful mahajans who do not want to face the expenses of cultivation and the intelligent middle class people, mostly living on Government service and liable to be transferred from place to place who will not have the means or the opportunity to cultivate their own lands or even to supervise cultivation. These two powerful classes will naturally do their utmost to encourage surreptitious sub-letting even by transferring lands to widows or minors nor will it be easy to ascertain exactly when a minor has attained majority or a widow has died leaving heirs who cannot sublet. The middle class people, mainly Government servants or belonging to the medical or similar professions who go about from place to place in search of a living will be disrupted moreover from land if sub-letting is entirely prohibited.

In order to avoid anomalies like the above, I would suggest that *either* (1) sub-letting may be permitted in all cases but so discouraged by fixing the statutory share payable to the proprietor (whether zamindar, intermediary or recorded raiyat) at $\frac{1}{4}$ th of the main crops (out of which the proprietor will have to pay rent normally assessed at $\frac{1}{6}$ th of the produce) or (2) Sub-letting is entirely prohibited in all cases, the Anchal Sabha being statutorily saddled in the case of the temple of Jagannath to see that a portion of the produce out of the lands held by the temple is paid for the upkeep of the temple and in case of the widows, minors etc. a portion of the produce not exceeding half the produce of the land held by them is paid for the maintenance of the widow or the minors and such other persons as may be dependant on the widow, convict or lunatic on the one hand or for the guardian required for the superintendence of the minor or lunatic on the other hand.

In any case sub-letting, if permitted, should only be done through the Gram Panchayat to their nominees, contract payments out of produce should be entirely and strictly forbidden and penalised. Payment in case of the temple should be made through the Endowment Commissioner and in other cases through an official receiver.

It should also be investigated whether sub-letting should not be entirely prohibited in all cases and the Desh-bhag payable to the Anchal Sabha so calculated and fixed as to include payment made for (a) upkeep of temples like the temple of Jagannath, (b) maintenance of indigent widows and minors (c) crop insurance as a protection against sudden famine years etc. This will make the whole community responsible for the religious and social welfare of the community.

3. *Waste lands* [page 28, xxv (a) of the report]—On principle when the management of the estate vests in the Anchal Sabha, the management of the waste lands should also vest in the Sabha. But in North Orissa, there will be many anomalous situations which should be clarified and considered. (1) Lands recorded as waste in the last settlement are not all waste. Many of these plots have been developed into gardens, tanks, cultivated lands etc. These where held by the landlord should be treated as his private land and where held by a tenant should be treated as raiyati land. Rent will of course be payable for all such land, but the possession of these lands should not be disturbed. The general principle should be that where a piece of waste land has been or is being developed the person developing same should be entitled to a raiyatwari lease with a proper assessment of rent. (2) In some cases houses, khamars, gardens and tanks belonging to the landlords were entered in the last settlement as waste (Anabadi) expressly with a view to assess them to a higher rate by sairat than what would be payable on the raiyatwari scale. These are to be treated as wrong entries and where the landlords have by their own efforts built houses, excavated tanks or planted gardens on lands recorded Anabadi they are to be treated as entitled to raiyatwari patta for the lands.

I would also suggest that as some at least among the landlords were taking a keen personal interest in the development of their estates, they should, on the abolition of the zamindari system by the management being taken out of their hands, be permitted to retain such areas of their waste lands as they would like provided that (1) they furnish a scheme of development of these lands (2) the scheme of development is accepted by Government as beneficial to the community (3) the landlords furnish the capital for such development (4) completes the development within a period of 7 years and (5) the development is carried on with Government permission and under Government supervision. For such waste lands the landlords will be exempted from payment of rent for 7 years, i.e., the period of development but shall pay rent and taxes for all developed lands thereafter. All transfer of these lands during this period will of course be illegal except when made to Registered Co-operative Societies carrying on the same development process.

This, I trust will mean the active assistance of some of the displaced landlords in the development projects and as the whole thing will be done under Government supervision and under Government permission there need not be any fear of abuse of powers.

4. *Decentralisation*—(page 46)—The system of decentralisation and deprovincialisation of revenue is a bold recommendation of the Committee. I would however advise full control over Panchayats and Anchals for a number of years as without such control there may be disruption of Society. Our experience of the local bodies like the municipalities and Boards have not been very happy and it is only with constant doles by the centre that these local bodies can be kept running properly. We are contemplating transfer of responsibilities regarding education, sanitation etc. to the Panchayats and Anchal Sabha and we are contemplating a sacrifice in Provincial revenue for this purpose. Unless there is adequate and co-ordinating control from the Provincial level, there may well be a chaotic state of things with mutual recriminations and constant deadlocks. I therefore propose that along with transfer of responsibility and consequent decentralisation there should be full and adequate control from the top. The threat of supercession has acted as a deterrent in some cases where local bodies have not functioned properly but we cannot contemplate supercession of Gram Panchayats as that will by itself engender schism and prove disruptive. The report has not contemplated this situation and unless adequate control is devised, decentralisation should not be attempted.

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GIRIJASANKAR RAY

The 14th July 1949

Principal, Puri College

Note of Dissent by Moulvi Muhammad Latifur Rahman, M.L.A.

I am compelled to submit my note of dissent as follows :—

(1) I want to add the words “ Government Servants ” after “ Air Services ” in para. (xx) of page 26 in Section IX—My reasons are if this privilege is not conceded to the Government Servants, the result will be that only the landless people will serve and those serving will have two choice before them either to serve and give up their lands in favour of tenants or to give up service and take to cultivation. The question of getting them cultivated through servants will not be convenient to them in as much as so long they serve near about their village area, they may go and supervise cultivation but when they are transferred to distant places their cultivation will be great loss to them.

(2) I do not approve the decision at page 35 Section X, para. (i) sub-clause (d)—The principle enunciated in sub-clause (b) should be made applicable to all revenue free estates. I can not understand why the principle should be deviated in case of the estate of Patia in Cuttack district and the Jagir Mahal estates of Puri district.

(3) I do not approve of the principle that Estate will be taken as the unit for the purpose of calculating Malikana because we know there has been partition by metes and bounds of Tenures in the Landlords sherasta and separate Sub-tauzis and Khatas have been created. Many landlords after partition have developed their Estates and their income has increased while others have not done any and if the Estate is taken to be the unit, the other co-sharers who have made improvements would be in a very disadvantageous position.

So I propose that each separated Estate should be the unit for the purpose of calculating Malikana.

The 15th July 1949

MD. LATIFUR RAHMAN

Note of Dissent by Sri Sarangadhar Das

In one of the very early sessions of this Committee I had moved a resolution to the effect that no compensation is to be paid to the Zamindars and other intermediaries. But I was in a minority of one, and the resolution was rejected, but the Committee had agreed that I could state my case in a minute of dissent.

All the arguments regarding compensation and Malikana, agreed to by the Committee, lead me to the contrary conclusion that the various intermediaries are not entitled to any compensation in the shape of Malikana. If any compensation is to be paid at all, it should be in line with the latest decisions of the United States and Australian Supreme Courts, and a nominal one of one rupee per estate will meet the ends of justice. I may briefly re-state the grounds on which this conclusion is based.

(1) The right to collect rent is not a property right, and the withdrawal of this right does not mean acquisition of property.

(2) Any such right conferred, and gradually established by virtue of the Permanent Settlement was vested in the Zamindars by the British in the latter's own interests, so that the former, in return for the arrangement, would remain the best supporters of the British in the country-side. This the Zamindars did in more than ample measure, and maintained British rule for one and a half centuries, as against the interests of the country. If the British had established such an unholy and inequitable system resulting in the furtherance of their own interests to the detriment of these of the country, an independent national Government is entirely justified in repealing the system, thereby rectifying one of the biggest wrongs, that has existed for an unreasonably long period. Righting a wrong does not call for compensation to be paid to one of the wrong-doers.

(3) In the Sanads granted by the British to the zamindars (vide extract from the Sukinda Sanad) certain very important and necessary duties and responsibilities to the community were attached to what I may call the trust. It is well-known that none of the Zamindars has fulfilled the trust reposed in him. On the contrary, they have completely abused this trust. By extracting Bethi (forced labour) in season and out of season, by forcibly appropriating to themselves even the vegetables from the tenants' gardens, by collecting illegal cesses known as *abwabs*, and by harassing the tenants in hundred and one ways, their uncontested power over the destiny of the villagers has turned human beings into something below the ordinary standard of self-respect a man should possess.

(4) The Zamindars and other intermediaries have enjoyed the material benefits accruing from the proprietary rights for one

hundred and fifty years, and the larger ones among them have accumulated wealth, which is out of all proportion in relation to the general poverty all round them.

(5) A perpetual compensation in addition to their accumulated wealth will mean perpetual spoon-feeding, and will deprive them of the opportunity to start from the scratch and to become useful members of Society in the new dispensation. Left to themselves and without this spoon-feeding, I have no doubt in my mind, that by dint of their superior energy and intelligence they will carve out excellent careers for themselves, and at the same time make glorious contributions to the building of the new society to which every Indian aspires.

While dissenting generally in this respect from the decision of the Committee I am well aware that there are thousands of very small Zamindars, who should receive protection from the State. With a view to enable them to adjust themselves to the new order of society, they should be given suitable rehabilitation grants, so that they may go into trade, commerce and industry as well as professional careers.

I am also not in agreement with the decision of the Committee that the Nijchas lands of the Zamindars are to be settled with them as *rai-yatti* lands. In most cases these lands have been in the cultivating possession of the sub-tenants, and the zamindars, without any effort at cultivation, have been enjoying half of the produce. The sub-tenants, who are the actual tillers of the soil, and have been protected by the Orissa tenants' Protection Act, 1948, are the real owners of these lands. And in conferring the occupancy right to them, it cannot be justified that they should pay for the lands. In coming to this decision I am only echoing what Mahatma Gandhi had said in the matter.

CUTTACK :

SARANGDHAR DAS

The 21st July 1949

Note of Dissent by Raja Sri S. N. Bhanja Deo of Kanika

I received a draft copy of the report as it was first published. Although there have been some alterations in it, the final copy has not been circulated. Notwithstanding this, we are asked to submit our notes of dissent for which sufficient time was not given.

In my view, the abolition of the present land revenue system is not an end in itself. Evidently, it seeks to ameliorate the condition of the tenantry. But the hasty manner in which the system is going to be overhauled, will not only do injustice to landlords, but throw the present economic condition of society into complete disorder. I give my views briefly as follows :—

The Scheme as contemplated in the report offends against the provisions of section 299 of the Government of India Act which has been adopted in the proposed new constitution. It is an indirect attempt to evade payment of adequate compensation as laid down in that section. It is not proper that a popular Government should adopt circuitous means to avoid justice and fairness. If it is finally settled to abolish the zamindari system. The principles laid down in section 299 of the Government of India Act and in the Land Acquisition Act should be followed.

The term 'Malikana' is a misnomer. Payment of Malikana came into existence in the case of recusant estates who did not accept the amount of land revenue assessed by the Government and did not execute Kabuliyats. In such cases, Government took possession of the estate and paid a certain amount called 'Malikana' during the period of recusancy and when the proprietor or his heirs applied to take back the estate, the Government used to restore the estate to them. So the scale laid down for Malikana is not applicable to the present case. Reference has been made in the report to Khurda. That was a case of confiscation and not acquisition. So it does not support the present proposal. To be brief, the landed intermediary interest has grown into a valuable right. It is saleable and has got a market value. So, the circumstances which conduced to the growth of such rights, should not be invoked to tamper with them. To do so will only remind us of the story of 'The Wolf and the Lamb'.

The term 'Malikana' pre-supposes existence of proprietorship, but if the proprietorship is abolished, it will be illegal to pay Malikana and compensation together, as it is inconsistent with each other. If the proprietorship is to continue, the management is to be regulated, more or less, on the lines of Trusteeship, otherwise the question of adequate compensation becomes imperative ; and if the same cannot be paid, the alternative as suggested above is the only solution, and which can be effected in gradual stages.

There is another thing which is lost sight of by the majority. The entire area which a zamindar holds is not under cultivation by tenants. Therefore, there is no landlordism with respect to it. Large areas are in the khas possession of the landlord which contain plantations, farms and orchards. He has spent large sums of money over them. But no return has come to him yet. Waste lands also have got a potential value. Justice requires that a landlord should be recompensed for losing them. In fixing Malikana, these items have not been taken into account. It is based on the rent roll of the estate.

Before the 'Anchal' system is thought of, I would invite the attention of the Committee to the Scheme of Trusteeship as advocated by Gandhiji and our Premier Sri H. K. Mahtab. The abiding interest which a Trustee may have in the improvement of the area in his charge is not possible in the case of temporary incumbents. The Trustee, as contemplated in my Scheme, * will have a vested interest and share in the improvement, whereas any other agency will have none. So the incentive which will, impel a Trustee to improve the area in his charge will be wanting if the fixed Malikana is paid, whereas, in case of Trusteeship, a major portion of the income will go to the people and there will be more healthy co-operation and joint incentive to develop the land.

The drastic changes contemplated in Chapter III will at once throw the country into disorder and perhaps will facilitate the works of persons who are attempting to wreck the present Government. People are easily carried away by promises which for the time appears alluring without halting for a moment to think about the consequences. Such promises may serve the purpose of propaganda to gain an immediate need. But if the authors of the proposed Scheme aim to ameliorate the condition of the people, then instead of looking forward to secure votes in the ensuing elections by captivating promises, should cautiously proceed in introducing momentous changes in the country, and not throw into winds the present conditions in expectation of uncertain better things in future. Politicians are not infallible and sometimes their ill-conceived measures cause disaster to people.

The policy of the scheme appears to be unsound. But I do not like to be lengthy by adverting to every clause of the report. I may notice some clauses here and there.

Take clause (xvi) at page 24 of the report.

Knowing what we do about the condition of the present Panchayat system, the scheme contemplated will be unworkable and will lead to corruption and oppression.

* The scheme of trusteeship suggested by the hon'ble member has been discussed by the Committee thread bear and will be found at the end of this note.

The provision regarding sub-letting of agricultural lands will wipe out the middle class. In Orissa, the number of capitalist middle class is small. Persons who have got large quantities of agricultural lands form the bulk of the middle class. It is from that class that the present intelligentsia has come. To cripple them by the provisions proposed in the report is not desirable in the interest of the country. Moreover, if somebody has more lands than he can himself cultivate, he has acquired these excess lands by investing money. It will be unjust to deprive him of his properties by giving right to Bhagdars to acquire the land by paying the value of a few years produce, which the original tenant is getting.

It is just possible that a man may have, for the time, more lands than he can actually cultivate, and so he sub-lets the excess lands on bhag. A few years after, he may have adult male members in the family who are capable to cultivate the lands. If the family is deprived of the excess lands by the provision of clause xx, then these persons will unless they are intellectually able to take up other occupations, be deprived of their source of livelihood.

The provisions relating to sub-letting with respect to religious endowments and trusts should also be extended to absolute Debottar properties, though the institution may be private. It seems, religious sentiments of the people are not respected by some politicians who advocate secular state. No one desires that the rules laid down in Puranas and Shastras will control the administration of the States as is being attempted in Pakistan, but it is very dangerous to ride rough shod over the religious sentiments of the people and to make them entirely materialist. Religion is the ultimate stage of morality. If you take away religion, you will have to undermine the moral principles of the people. Material idealism has wrought devastation in the West, so those of the politicians who at present are at the helm of the administration should be careful not to inspire Godless ideas into the minds of the people. In the interest of the people, Government should not interfere by legislation with religion and religious institutions of people and respect them where they exist.

I may take up para (viii) at page 37 of Chapter III.

It is provided there that—

“ That Land Reforms Commissioner will collect necessary data for calculation of Malikana and will award them after hearing such objections as may be provided for in the Rules. There will be an appeal from his decision to a Special Tribunal consisting of a High

Court-Judge and a non-official whose decision will be final. No Civil Court will have any jurisdiction in the matter ”

This is a mischievous provision. In the present-day enactments, it appears that our popular Government is anxious to shut out justice to the people if any has a grievance. It is the judiciary which controls the vagaries of Executive Officers and maintains the dignity of law. There is no reason why Government should be nervous when a thing is brought to the scrutiny of courts. When a citizen feels aggrieved by the decision of an Executive Officer, the law allows him to approach Civil Courts for an adjudication. Civil Courts are maintained by the State to administer justice, not only between subject and subject, but also between State and the subject. So people should not be prevented by legislation from going to Civil Courts for redress when they consider that the decision of an officer is not according to law. Further, the proposal of having a High Court Judge in the Tribunal to work with an official and a non-official seems to be very derogatory to the dignity of the High Court. The position of the High Court Judge is unique. They are above all political considerations and they are there to see that the law of the country is properly administered and the parties get justice. So, the Tribunal ought to be constituted with only officials and non-officials and there should be a provision for appeal to the High Court.

The provision for legal compensation in clause XI at page 38 of Chapter III is ludicrous. Compensation means satisfaction to be made to persons whose rights are interfered with or whose properties are taken away in the exercise of statutory powers. By the common law of England, as stated by Mr. Ingram in the introduction to his Book on the Law of Compensation,

“ no violation of the rights of private property is allowed even for the general good of the whole community. The principle that the good of the individual should yield to that of the community has in this country never been received with favour. And no Tribunal of the Judicature has ever been entrusted with the power of compelling sale of land or dispossessing a citizen of his house or premises even for public purposes, of great and manifest utility ”.

If we keep the above principle in view, the proposal for payment of the loss of landed interest of an owner, be he a Zamindar, a tenure-holder or a raiyat having more than 33 acres, should be according to the legal principles. It should be real compensation and not a compassionate allowance under the colour of compensation.

I do not like to make any elaborate criticism on the various clauses of the report. Before any change of nature proposed in the report is introduced in the land revenue system of the Province, attempt should first be made to prepare ground for its working. Consolidation of holdings and co-operative cultivation are first to be tried before drastic changes outlined in the report be undertaken. Agitators have created unrest and before the new Government settles down, introduction of drastic changes in the economic structure of the country may spell disaster, and may encourage persons who are out to take the best advantage of disturbed conditions.

Before concluding my note, I must say that I had difficulties in putting forward my views before the Committee. Any suggestion of mine, instead of being coolly discussed, was swamped by the voice of the majority. The majority of the members of the Committee were echoing the voice of their boss and had no inclination for a quiet deliberation and taking reasonable view of a thing which was put forward before them by a member of the minority party.

The Scheme which is outlined in the report is the result of undigested ideas found here and there. The proposed Scheme, if carried out, will bring about neither peace nor happiness to the people, but will create disaster in the society in various ways. It is most desirable that the proposed Scheme should be more carefully scrutinized by competent persons who are fully equipped intellectually to express an opinion on the subject.

It is unfortunate that the considered opinion of the Law Department of Government which was circulated to the members with a forwarding letter to the effect that it would be discussed in the Committee's meeting, was deliberately shelved. When the matter was brought to the notice of the Chairman, he stated that the majority were not interested and, as such, it should not be placed before the meeting. This indicates that the majority of the members had a pre-conceived Scheme in support of their party-policy without any regard to the consequences that would follow, and were not prepared to re-cast it in accordance with the principles put forward by the Law Department of the Government.

I would like to make a particular reference to paragraphs 8 and 9 of the Note dated the 27th January 1949 of Mr. Coari, Law Secretary, which run as follows :—

“ 8. It was also indicated in the minute so well prepared by the Revenue Department that if at all payment of compensation is necessary, any sum, however small it might be, may be specified to meet the requirements of the section. Again, with great respect, I venture to

take a different view of the question. It is for that reason that I tried to indicate the requirements of sub-section (2) in some details. Revenue Department might recall that even for extra-ordinary purposes under the Defence of India Act, ample provisions were made for payment of liberal compensation, not only for acquisition, but also for temporary occupation of immovable properties. Compensation means making things equivalent satisfying or making amends. Ordinarily, compensation is worked out on the market value of the property acquired. In this sense, I venture to think that nomination of any arbitrary sum as compensation will not approach the real and true import of the word ' Compensation '.

- “ 9. When the Constitution Act itself provides the procedure for adoption in the matter of expropriatory legislation, I shall be wholly incompetent to go into the question about expediency of undertaking such a legislation. In my this note I have merely indicated the preliminaries which are to be settled and broad outline of counter-arguments that might be advanced against such a legislation ”.

The members of the majority party, most of whom are laymen should not have ignored the views of the Law Secretary in the manner they did.

S. N. BHANJA DEO

Member

Land Revenue and Land Tenure Committee

Orissa

The 16th July, 1949

**A skeleton scheme of radical change in the present zamindari system
based on the principle of Trusteeship presented
by Sri S. N. Bhanj Deo, M.L.A.**

The fundamentals to which we are all agreed are :—

(i) Limitations to un-earned income ;

(ii) Improvement to agriculture and to the condition of the agriculturists or tillers of the soil ;

(iii) Healthy institutions conducive to the progress of the country should be allowed to survive ;

(iv) Effective control by Government over such institutions and for bringing the tillers of the soil to closer contact with Government.

Hence, it is agreed that radical change in the existing zamindari system should be made.

So, as an alternative to the present system, the following are suggested :—

The proprietary right should vest in a Trust and 80 to 85 per cent of the gross income should be available for the improvement of agriculture and welfare of the people and contribution to the State for meeting overhead charges and specialised Departments of Government. [As a large sum of money is immediately needed for the improvement of agriculture and rural development, so it may not be possible to enhance the amount payable to Government to a very great extent.]

There might be objections from the side of the landlords when it is suggested that the proprietary right will vest in the Trust without payment of any compensation. So we may say that though he may retain his proprietary right, yet 80 per cent of his gross income will vest in the Trust.

The Trust will be under the supervision of a Central Committee consisting of the Revenue Commissioner, one member of the Orissa Assembly, one landlord elected by the Land-holders' Association from the permanent settled Estates and one from the temporary settled Estates and one member nominated by the Revenue Commissioner from the Trust area.

There will be a local Committee in each Trust Unit consisting of one member nominated by the Revenue Commissioner, three persons elected from the Trust Unit and one member nominated by the Managing Trustee or the Managing Trustee himself, in which case he may be ex-officio President of the Committee with the approval of the Revenue Commissioner. In case of any

disagreement between the local Committee and the Trustee, the matter will be referred to the Central Committee and their decision will be final.

All Estates having an income of one lakh and more will form a Unit and have a local Committee.

Group of Estates having an income of one lakh should form a Unit and have a local Committee.

The Managing Trustee for such Group Unit will be nominated by the Revenue Commissioner preferably from the ex-landlords.

The Trustees or ex-landlords will be entitled to an income of 10 to 20 per cent of the gross income from their respective areas. They may also be entrusted with certain responsibilities under the Revenue Commissioner.

The Managing Trustee of the permanent settled areas will be entitled to 20 per cent if they are found competent and in charge of the management. If they are found incompetent, they will be given subsisting allowance not less than 10 per cent and the Revenue Commissioner will appoint a Manager for the time being. The family custom and law will guide succession of the Trustees of the permanent settled areas and their Malikana should be assured. The trustee will be liable to pay rent to the trust for any homestead or private land hold by him.

The financial aspect:—If compensation is paid, they may actually get more by way of interest than what is being assured as Malikana to the Trustee. (ex-landlords) and the liability of the State is greater. If 10 years' income is paid as compensation, there will be no surplus to the State for ten years to come and there will be nothing available for the benefit of the tenantry. It is also expected that the net income of the Estate may fall, as certain concessions may be given to the tenantry and so it may take about 15 to 20 years to liquidate the liability of the compensation that may have been paid to the out-going landlords.

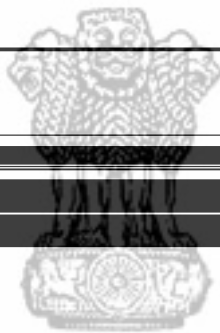
Hence, the scheme suggested will not put the State or the Estate concerned to any financial difficulty.

In temporary settled areas the sleeping Trustees will get subsisting allowance equivalent to 10 per cent of the gross income of their respective Estates and the Managing Trustee will get 20 per cent of the income from his Estate, or such remuneration as may be decided upon by the Revenue Commissioner.

It is expected that a healthier atmosphere will be restored in rural areas by the operation of this Scheme and it will give facility for co-operative and community farming. Thus the property will actually vest in the people.

Note of Dissent by Sri Laxminarayan Misra, M. L. A.

Our Committee was supposed to recommend interim measures for the improvement of the existing hackened system of land tenure and land revenue which is in vogue in the district of Sambalpur from the last decade of the last century but unfortunately enough its report contains not a word to call upon the Government to abstain at once from keeping the people of the said district sixty years behind the times. The learned members of the Committee were all aware of the fact that the Government had most ludicrously witnessed the lapse of two Bills which were



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the short compass of this note of dissent about the mismanaging features of the different Zamindaries of Sambalpur but nevertheless I should point out a particular case with respect to a particular Zamindari for an instance. The Zamindari of Khariar the tenure of whose Zamindar is not at all different from that of the other Zamindars of the district has experienced the systematic rather ruthless deforestation from years with the result that the precious teak-wood treasure of that area has practically been emptied. According to expert estimations, save and except Burma there was no other area but this Khariar Zamindari which could reasonably boast for its extensive teak-woods. Any man having the natural power of vision may find out the loss of national wealth at Khariar whose Zamindar has been most foolishly responsible for the indiscriminate and unwarranted cutting down of innumerable teak-trees on account of petty personal gain. I should in all fairness exhort that no compensation whatever should be paid to the Zamindar of Khariar unless and until the dire losses of the nation be properly recompensed by him. The Zamindar of Borasambar also has got to his utter discredit a history of continued and gross mismanagement of things and in all fairness he should be deprived of a fair portion of computable compensation upon the due enquiry into the authenticity of my charges.

As for other things I have no word of dissent and my signature would be there to signify my assent to the report of the Committee, even though I believe that there is no moral justification for any Zamindar of the Province to claim any compensation whatever for his estate which was in the past the creation of Satan on undemocratically exploiting feudal lines.

LAXMINARAYAN MISHRA, M. L. A.

*Member of the Land Revenue and
Land Tenure Committee*

Note of Dissent by Raja Bahadur of Khalikote

1. In pursuance of Resolution No. 7533-R of the Government of Orissa dated 15th November 1946, this Land Revenue and Land Tenure Committee was appointed on 26th February 1947. The object of this Committee as the Resolution No. 7533-R would show is to recommend Legislative and other measures for reforming the different systems of Land Revenue and Land Tenure that are in vogue in different parts of the Province, by making the incidence of Land Revenue or Rent, uniform, equitable and elastic. To put it more clearly, this Committee have been asked to suggest ways and means as to how best they can bring about uniformity in the existing rents prevailing in ryotwari areas, and non-ryotwari areas. This is the first term of reference. The second refers to the elimination of all intermediary interests that exist wherever possible between the State and the cultivator. The 3rd, 4th and 5th aim at devising ways and means to improve agricultural production and raise the standard of life of the cultivating classes, besides finding ways for prevention of fragmentation of agricultural holdings, and fostering consolidation of holdings or creation of economic holdings. While making recommendation on the aforesaid points of reference, the Committee was required to examine the Reports of the Bengal Land Revenue Commission (1940), the Madras Estates Land Act Committee (1938) and the Famine Enquiry Committee (1945).

2. I have read with care the Report consisting of 52 pages of printed matter, excluding the Appendices A,B,C,D,E covering another 29 pages in closed print, and I do not find any where the results of the examination of the aforesaid Commission Reports. Further, instead of answering point by point the items of Reference the Committee side-tracked the same and introduced wholesale changes not contemplated in the original terms of reference.

3. At page 4 the Report confesses that "The Committee was not an expert Committee of any sort. It did not also consider itself competent to lay down the basic principles of agrarian Reform for the Province". If that is so, I would respectfully ask why they should have undertaken this mighty task, instead of calling for a Report from a body of experts and act upon their advice. It is not the dearth of men that is responsible for this situation, but the fear of the Government that the experts would not countenance and lend support to the views of the Congress Party who want to bring about the Reforms not because the country is in need of them, but because they have to fulfil their election pledges.

4. True it is that the election pledges have to be fulfilled. If one examines the nature and the occasion of these pledges it is evident that they were made at a time when it was necessary to

catch the imagination of the masses to fight an alien power. In the face of a common enemy, it is but natural for people of all persuasions to join in driving away the enemy. When once the danger is gone and a new order of things is set up, it does not follow that the political slogans and shibboleths which were good for fighting or electioneering have been accepted by other groups of men, who are the masses, as matters of principle. Freedom was won about 2 years ago; it is found that during this time the most important of the election pledges are not practicable to work out in the new altered state of the country. For instance, the division of Province on linguistic basis did not find favour with the leaders. They say that time for formation of Provinces on linguistic basis is yet to come. Dr. Pattabhi, the Congress President, once an ardent patriot and exponent of formation of Provinces on linguistic basis, is now, as will be seen from his declarations and action very slow to move in that regard.

5. With respect to the question of the Zamindari abolition or elimination of intermediaries, (Item 2 of our Reference) it is worthwhile to recapitulate the pronouncements of the foremost leaders of the Provinces as well as the Centre. Premier Mahtab of Orissa in his note to the Committee said :—

“ Abolition of Zamindari as a means to create classless society will necessarily entail considerable confusion which must be got over to have the desired object. The Constituent Assembly and the present law do not permit confiscation of zamindaries or any right which the individual possesses today rightly or wrongly. Therefore the question of acquisition of zamindaries without compensation is out of consideration. Then the question of acquisition of zamindaries with due compensation has not been properly dealt with in Provinces where it has been taken up. When the law and the Constitution lay down that due compensation has to be paid for acquisition of any right, none is entitled to trifle with this provision and skip over it by showing scant courtesy to the principle laid down. There can be no objection to agitating for amending the Constitution and the law. But once a principle is accepted in the law and in the Constitution, it should be carried out honestly and without mental reserve. If one does it and proposes to acquire zamindaries, one is faced with serious financial complications which may not be easy either for the Provincial or Central Government to get over in the present circumstances ”.

Pandit Nehru speaking to the Presidents and Secretaries of the Provincial and District Congress Committees at Puri ventilated

that while the Congress Governments stood by their pledge to abolish Zamindaries, the question of giving compensation was an intricate and difficult one and that all this had to be done in a well thoughtout manner. The Revenue Minister of Orissa said in the Orissa Assembly on the 11th March 1949 that it was not possible for the Provincial Governments to undertake abolition of the Zamindaries without the financial assistance from the Centre. There was no possibility, the Minister added, of such help forthcoming. Sri Bimal Chandra Sinha, the Revenue Minister of West Bengal announced in the Budget session on the 18th March 1949 that the West Bengal Government were warned by Government of India in a letter of September 1948 that the latter's financial position did not warrant the conclusion that they would be in a position to assist the West Bengal Government if their scheme of abolition of rent receiving interests involved assistance from the Centre. In October 1948, the West Bengal Government received another communication from the India Government in which not only the financial difficulties were reiterated but also legal difficulties pointed out. It was pointed out by the India Government in that communication that if the Provinces wanted to proceed with their schemes of abolition of Zamindari system they should preferably do so in selected areas and that all *compensation* would have to be paid in cash out of the Current Revenues of the Provinces. For a deficit Province like West Bengal, S. Sinha remarked, it is really impossible to adhere to the scheme of abolition of Zamindari system under these circumstances.

6. The former Finance Minister of India, addressing the Rotary Club in Madras in March of this year stated that the Zamindari legislation had created grave consequences and was damaging the money market seriously. The practical situation, he said, would not permit any large scale scheme of nationalisation, and that the Provincial Governments had added, and were adding to the difficulties of the Central Government and urged that the central Government should have the power to control the idiosyncracies of Provincial Governments. Sir Jagadish Prasad speaking at a Conference in April of this year stated :—

“ Those who sincerely believe, as I do, that the abolition of the Zamindari system will destroy the very solid structure of our rural society and will be beginning of a dismal epoch of violent upheaval, must strain every nerve to save the Province from this catastrophe. This short sighted policy of abolition will create millions of discontented men who may join the Communists from a sense of humiliation and frustration. The State policy must take account of the internal situation as well as of dangers without and must not be the slave

of election manifestoes. Let us abate our ardour for dynamic forces until we have made some which will not hurl us into an abyss".

Nawab Muhammad Yusuf of United Province is reported to have characterised the abolition of Zamindaries as the very antithesis of Gandhism and will light up the fire of hatred and lead India to disaster.

7. I have ventured with a certain amount of compunction and regard to our deliberations to record a few of the pronouncements amongst several only to show that the Government of Orissa also are of the same view. Reference is made in page 6 of the Report wherein it is stated "The fact that neighbouring Provinces of Bihar and Madras had decided to bring in legislation for the purpose of merely abolishing Zamindari without going into the question of the reform of the land system as a whole, had its repercussions on this Province among different sections of the people. Majority of the members of the Committee considered it necessary to make an interim recommendation to the Government to take over the private estates after necessary legislation, pending the consideration of the other issues by the Committee. But as the Committee actually went into all the issues involved in the problem, it realised that it was not safe or politic to tackle the problem piecemeal". Thus the points of reference were not at all answered in the Report. The next question that would arise is if the points under reference have become unanswerable to the Committee, has this Committee power to go behind the reference, and impose upon the Government and the country, certain other reforms not contemplated by the Reference. Any such recommendations, I submit are ultravires of the functions of the Committee. Since the Committee has found itself unable to answer the reference, it becomes functus officio to deal with any other matter or kind of Reform, not referred to them, unless a fresh Reference is made to them.

8. It is said in the Report that during the deliberations of this Committee, they received notes from the Hon'ble Premier and the Chairman of this Committee, containing radical suggestion for the deprovincialisation of land revenue and the setting up of local authorities for the management of lands and for carrying out the functions of the local Government, much more numerous and important than those of the existing Local Bodies. Chapters 3 to 8 (Pages 15 to 87) deal with these Reforms under the category of integrated scheme of Reforms and so on. They recommend the creation of a new Department in the name of the Land-Reforms Department, division of areas into Anchals, and a machinery in the form of local bodies to administer the Anchals, and finally decentralisation in Government. Incidentally they touch upon the

acquisition of Zamindaris and other intermediaries by granting Malikana and the like, with a nominal sum of Rupee one to be paid by way of compensation to satisfy, by way of abundant caution, the requirements of law. My first objection to these integrated scheme of Reforms is that they are not covered by the terms of Reference to the Committee. I wonder under what term of Reference the question of decentralisation in Government and the creation of new divisions into Anchals, etc., come in, to engage the work of this Committee. Decentralisation in Government and other topics connected with it are entirely foreign to the terms of the Reference. The 6th term of Reference requires the Committee to report on the financial and administrative implications consequent upon the acquisition of all intermediary interests, in case this Committee felt it necessary to recommend state acquisition. The point involved in this Reference relates to the working of the principle enunciated in Section 299 of the Government of India Act. Clause 2 of Section 299 lays down that neither the Federal nor a Provincial Legislature shall have power to make any law authorising the compulsory acquisition for public purposes of any land.....
 ... unless the law provides for the payment of compensation for the property acquired and either fixes the amount of compensation or specifies the principles on which, and the manner in which, it is to be determined. The Section requires that if the interests of the intermediaries are to be acquired for public purposes, they are to be paid compensation on certain principles to be worked out, as a condition precedent to or simultaneously with the acquisition. If this compensation is to be paid, this Committee was simply asked to report on the financial and administrative implications. This does not warrant the recommendation and decentralisation in Government by dividing the country into a number of Anchal Sabhas, with autonomous powers of administration. The only answer to the said term of Reference would be whether the State can pay compensation, will the administrative efficiency suffer on that score? It does, what are the ways and means to make up the administrative difficulties.

9. Next, term 7 of the Reference refers only to the recommendation of interim measures for the improvement of the *existing system*. It does not enjoin on the Committee to go beyond the *existing system* and recommend measures ignoring the same and foreign to the *existing system*. Thus, my submission is that this Committee has no power to recommend decentralisation in Government or deprovincialisation of land revenue by introducing a new land reform machinery. If it wanted to do this, it should have included the same specifically in the Terms of Reference and elicited public opinion.

10. The note prepared by Mr. N. Chaudhuri, as Chairman of this Committee and circulated amongst the members begins by stating that the Committee has recommended that instead of the State acquiring the proprietary interests of the Zamindars and other intermediaries, a system of Land Revenue Administration should be introduced in which collection of Land Revenue and Management of lands should be vested in Local authorities representing the village community of the locality under which it shall be provided that the present private proprietors who will be deprived of the possession and management of their estates shall get Malikana allowance in consideration of their proprietary rights. The opinion of the Law Department thereon is that you are adumbrating a reform which is quite exproprietary in its character, trying to circumvent the Government of India Act by skipping over the field merely by substitution of one word for another. The Secretary of the Land Revenue Committee through his letter No. 60 (16) L. R. C. dated the 1st February 1949 circulated the note of the Law Department on Malikana and compensation to the members of the Committee stating that it would be discussed at the next meeting. But on the 24th of February 1949 at the meeting of the Land Revenue Committee, this was brushed aside and it was decided by the majority that the note need not be considered, apparently because the views so ably and impartially put forward by the Government's own Law Secretary through his note dated the 27th January 1949 was not to the taste of some of the members. It is unfortunate that having asked the Law Secretary to prepare a note on the subject, such an able Note prepared by him, after great efforts he must have put forward forward for preparing the same, should have been given a treatment that it did not deserve. I, therefore, reproduce below the entire Note of the Government's own Law Secretary for the benefit of the Government and the public which is as follows :—

Opinion of the Law Department

*“ Revenue Department—*I have read with great interest the minute prepared by the Revenue Department for the intended legislation. In my humble opinion the question that is now for consideration before the Revenue Department is really very stiff and terse and does not admit of a ready solution. I shall present the case for consideration of the Revenue Department in the manner in which I have been able to follow the subject :—

2. Your attention is invited to sub-section (2) of section 299 of the Government of India Act. From a plain reading of the sub-section it appears to me to be quite clear that whenever any

expropriatory legislation is to be undertaken, the legislation must provide for—

- (i) payment of compensation and ;
- (ii) fixing the amount of compensation or specifying the principle on which and the manner in which it is to be determined.

3. Thus, under the sub-section, two contingencies are contemplated, viz., the legislation shall either fix the amount of the compensation or specify the principle on which the compensation is to be worked out and then such compensation shall be followed by payment. I shall lay stress on the word 'payment'. Payment does not mean promise to pay nor does it necessarily mean payment in satisfaction or discharge. On the other hand, it is acknowledged that the word 'payment' is not technical word. It has been imported into law proceedings from the exchange and not from law treatises. In other words, it means that payment ought to be real and not in show appearance. Therefore, it appears to me that any promise to pay in future will not amount to payment as the connotation of the word will justify. If I remember aright in my previous note, while discussing on the question of annuity, I suggested that payment at least by tender must be simultaneous with acquisition.

4. It has been suggested by the Revenue Department that instead of annuity if legislation be undertaken for payment by way of Malikana, then the difficulty would be circumvented and the intended legislation would not be hit by sub-section (2) of section 299 of the Government of India Act. I regret, I am unable to subscribe to this view. You may call it annuity or Malikana, the character does not change, viz., it is merely a promise to pay in future and not actual and real payment at the time of acquisition.

5. By tracing the history of how Malikana came to be introduced in earlier Regulations, it has been indicated in the minute so carefully prepared by the Revenue Department that if the payment of compensation be made by way of Malikana, then the intended legislation would not be all an expropriatory legislation and as such the restriction that is to be found in sub-section (2) will not come into operation at all. Here again I respectfully differ from the view taken by the Revenue Department. It cannot be denied that the owners of the estates, whether settled permanently or on temporary basis, are proprietors of the estates. The expression 'owner' or 'proprietor' of a property denotes a person in whom for the time being the property is vested and who has the occupation, control and usufruct of it. If the aim of the intended legislation be that the owner or the

proprietor of an estate should be divested of its occupation, control and usufruct, the result cannot be otherwise than an expropriatory legislation. It does not matter that in olden times when a proprietor refused to pay the assessed Malguzar, the management of his estate was taken over by Government and the proprietor was instead paid some Malikana. But this happened because of the olden days when the Revenue administration was yet to evolve and when it was most uncertain whether the holder of an estate was really vested with ownership or the proprietary right in the estate. With the advance of time those ideas have now disappeared and the proprietor of an estate is now vested with tangible right of free disposition of his property in any manner he likes, In fact, the idea of ownership to a property and the right of the owner to freely dispose of the property in any manner he likes are so closely associated with each other that it is not possible to conceive in the abstract sense of the property and not simultaneously of the power to dispose it of to the best advantage of the owner of the property. As soon as the owner of the property will be made to surrender his free right of dealing with his property by means of any legislation whatsoever, that legislation, in my humble view, should be characterised as expropriatory legislation. It is not the right to manage the estate that shall affect the question, but it is the surrender of the free right to deal with the property for all times to come that shall be the determining factor whether the proposed legislation should or should not be considered as expropriatory legislation.

6. Revenue Department have tried to indicate the true import of the word 'Malikana'. With the permission of the Revenue Department I shall quote only one decision reported in I. L. R. 50—Cal—822 at p. 838 to show what connotation it received from the Calcutta High Court.

'As pointed out, Peacock, C. J., in *Bhoalee Singh v. Neemoo* (1)fq alikana is a right to receive a portion of the profits the estate for which the Government have made a settlement with another person, the real proprietor having neglected to come in and make a settlement. In the language of section 44 of Regulation VIII of 1793 it is an allowance in consideration of proprietary rights, (See also *Heeramund v. Ozeerun* (2), *Gobind Chander v. Ramchander* (3), no doubt, Malikana has sometimes been described as an "unalienable right of proprietorship" (Fifth Report, Vol. II, p. 152, Vol. III, p. 180; Field on Bengal

(1) (1869) 12 WR. 498

(2) (1866) 6 WR. 151, 9WR. 102

(3) (1873) 19 WR. 94

Regulations, p. 51). But this does not justify the inference that a person in receipt of a Malikana allowance under section 5 of Regulation VII of 1822, even though he be regarded as the holder of a "distinct proprietary right constituting an interest in land" can be deemed to be a person to whose land or estate alluvial accretion has been annexed, within the meaning of section 4 of Regulation XI of 1822. The Malikana-holder, it may be conceded, is entitled to receive periodically a specified amount from the income of land; this right may have the qualities of a rent charge; but this is not sufficient to show that the land or estate is still held by him as zamindar immediately from Government and unless this is established he cannot maintain his title to the accretion. In this view, the claims put forward by the defendants must be held to have been rightly dismissed".

These are not the factors which are present here for settlement of Malikana with the proprietors. Here as the scheme has been outlined, the proprietor X is to be divested of his proprietary right, the management and control of the estate are to vest in a community Y' and the beneficiary is to accrue to another community Z. In essence, therefore, for annuity which was contemplated formally, the word 'Malikana' has been substituted so that the bar contemplated in section 299 (2) of the Government of India Act may be circumvented. In my humble view, law shall not permit such a skipping over the field merely by substitution of one word for the other. सत्यमेव जयते

7. It has also been with great force argued in the minute prepared by the Revenue Department that as it is not a case of acquisition for public purposes, sub-section (2) shall not apply and at best sub-section (3) may apply. A consideration of this question will depend upon the interpretation of the word 'acquisition'. While interpreting sub-section 299 (2) of the Government of India Act the Federal Court in the decision reported in A. I. R. 1944-F. C. 62 observed like thus :

'The word 'acquisition' implies that there must be an actual transference of, and it must be possible to indicate some person or body to whom is or are transferred, the land or rights referred to

Here, when the scheme is fully worked out, there shall be no escape from the conclusion that it is a case of acquisition. It cannot also perhaps be rightly contended that sub-section (3) does not contemplate payment of compensation when any land is intended to be transferred to public ownership. The observation

of the Select Committee of the House of Lords on the principle about expropriatory legislation is to the following effect :

‘ General legislation, on the other hand, the effect of which would be to transfer to public ownership some particular class of property, or to extinguish or modify the rights of individuals in it, ought, we think, to require the previous sanction of the Governor-General or Governor (as the case may be) to its introduction, and in that event he should be directed by his Instrument of Instructions to take into account as a relevant factor the nature of the provisions proposed for compensating those whose interests will be adversely affected by the legislation ’. Vide para 369, P. 217.

I cannot read in sub-section (3), even by implication that in case of transference of any land to public ownership, the question of payment of compensation will not at all arise. Sub-section (3) merely indicates the manner in which legislation in this behalf may commence, but it does not specifically provide that no payment of compensation will be required if the proprietor X is divested and his right in his estate is transferred to public ownership Z.

8. It was also indicated in the minute so well prepared by the Revenue Department that if at all payment of compensation is necessary, any sum, however small it might be, may be specified to meet the requirements of the section. Again, with great respect, I venture to take a different view of the question. It is for that reason that I tried to indicate the requirements of sub-section (2) in some details. Revenue Department might recall that even for extraordinary purposes under the Defence of India Act ample provisions were made for payment of liberal compensation not only for acquisition but also for temporary occupation of immovable properties. Compensation means making things equivalent satisfying or making amends. Ordinarily, compensation is worked out on the market value of the property acquired. In this sense I venture to think that nomination of any arbitrary sum as compensation will not approach the real and true import of the word ‘compensation’.

9. When the Constitution Act itself provides the procedure for adoption in the matter of expropriatory legislation, I shall be wholly incompetent to go into the question about expediency of undertaking such a legislation. In my this note I have merely indicated the preliminaries which are to be settled and broad outlines of counter arguments that might be advanced against such a legislation.

C. COARI,

The 27th January. 1949.

Law Secretary to Govt.”

11. Enough has already been said and talked of in recent years throughout the country whether the Zamindars have or have not proprietary rights in the soil, or whether they were mere farmers of Revenue. While I hold the view that the Zamindars are the proprietors of the soil, it is needless to go into the question any further as the liquidation of the Zamindari system has become a settled fact. If it is a case of bringing about a new social and economic order, the Zamindars, once powerful and influential, have nothing to say about it. But this should not be at the sacrifice of the Zamindars. It would be an act of the greatest injustice if their properties which they hold for many hundreds of years are expropriated without adequate compensation. Many of the Zamindars are at the present day heavily involved in debts. Some have spent lakhs and lakhs towards charities and other good causes, maintained schools, colleges, orphanages, poor houses and so on. Understanding current trends and prepared to co-operate with the Government, they are willing to forego their properties which have been in their possession and enjoyment for generations and even centuries and only plead that as part of the people and the nation justice should be done to them as to any other individual or a group in society. From their position in the past as well as in the present, the Zamindars submit that they are entitled to claim from the hands of the Congress authorities a fair and generous treatment calculated to assure them of a place in the future society from which they can help others as well as themselves.

12. Zamindars have existed for hundreds of years even before the advent of the British and throughout they have always exercised proprietary rights. Now this proprietary right is sought to be resumed for no fault of the Zamindars, but due to exigencies resulting in the creation and establishment of a new order of things. It is but fair, in the circumstances, that the State should fix a fee for it. The Government of India Act makes it obligatory on the part of the State to acquire by paying adequate compensation. Justice and equity also support the principle underlying the payment of compensation. The question would then arise, how much should be this compensation, how is it to be assessed, by whom should it be assessed and how is it to be made payable? These questions are again answered differently in different Provinces and even the Floud Commission have not been definite in their pronouncements. In Orissa, a perusal of the several answers given in reply to the Questionnaire issued by the Land Tenure Committee would show that each man has answered it in his own way. Even officials who have had enough of Revenue experience in Orissa and elsewhere have not substantiated their figures with any reason for recommending a certain rate. All this would go to show that the matter itself is fraught with great difficulties and it is not possible either off-hand or by study or by

gathering any amount of particulars to assess the value of the vested legal rights. I would, therefore, suggest that we should fall back upon legal decisions and get inspiration from them. They would no doubt give a correct perspective as they are the pronouncements of the highest men in the land and as such would be reasonable and fair. I would therefore, recommend the following principles of acquisition ; any of them ought to satisfy the parties concerned. The first is to apply the principles adopted by the Government and the judiciary, in acquiring lands for public purposes by the Government. This is best illustrated by Justice Fletcher Moulton in the well-known case reported in 1909, 1 K. B. 16, when he says that the owner receives for the lands he gives up their equivalent, i.e., that which they were worth to them in money. The principle enunciated in this case is that the legal right is now changed by the offer of compensation, in form. The same principle is followed in India in the Land Acquisition cases.

13. (i) Secondly in a case that went up to the High Court of Madras (1933 Madras 190) their Lordships were considering the question of purchasing Malewaram rights and also of rights in other lands. They held that, in considering the claim of the owner, the value to be paid for is the value to the owner, as it existed at the date of taking, not the value to the taker. The value to the owner consists in all advantages which the land possesses, present or future, and if you acquire this right you must compensate him for same. Then again the value which has to be assessed is the value to the owner who parts with his property. It follows that the Malewaram right is a separate species of property or interest in land which is a separate marketable interest in land that would fetch a sum in the open market. In the Estates, the Zamindar has got the right of collecting the Malewaram and pay Peshcush from out of it. The right of collecting the Malewaram which again is a charge upon land is closely associated with the establishment necessary for collecting the Malewaram, and all other improvements which the Landholder has to make by way of maintaining and repairing irrigation sources, which would go to enhance the Malewaram. In calculating the net Malewaram, the Peshcush and Cesses alone should be deducted from the present Revenue. The cost of establishment and maintaining irrigation sources, are rights associated with the rights of the landholder and as such should not be a deduction. To exercise this Malewaram right the Zamindars have necessarily, to engage a staff and maintain irrigation sources. Most of us have built large irrigation sources, investing large sums of money even in recent years, with the abolition of Zamindari hanging overhead. As for myself, I can assert without fear of contradiction that I have built many such works even in recent years and would have done much more with

a little more co-operation and encouragement from Government. Amounts spent and invested in big irrigation sources, which are a source of permanent wealth to Government, require separate valuation and must be taken into account in fixing compensation. From works constructed in recent years the Zamindars have not benefited, as periods of reclamation have not expired and actual cultivation has not begun but from these works very soon the Estate stands to gain enormously.

(ii) As regards the interest which the Zamindars have whether present or future in forest lands, waste lands, vacant sites, porombokes, minerals wealth, reversionary rights, etc., these are to be separately assessed and added to the sums mentioned in the above para for purposes of fixing compensation. The market value of these should be so assessed as if they were all combined and this method of enquiry may be divided into two parts. I refer to 1933 Sind. 124.

(1) Appraisal and (2) Apportionment. For purposes of appraisal, four methods have been accepted as proper guide to follow.

- (i) The price that can be paid within a reasonable time for the land itself ;
- (ii) the rents and profits received on account thereof shortly before the acquisition ;
- (iii) the prices paid for adjacent lands possessing similar advantages ;
- (iv) the opinion of valuers or experts

14. Consequent upon the recent amendment of the Madras Estates Land Act the Estates in the district of Ganjam are being surveyed and rents settled introducing for the first time the principles of raiyatwari settlement. These rents give an idea of the income of the cultivated areas. Rights in waste lands, forests and all other lands over which Zamindars have existing and reversionary rights, etc., should be separately assessed. The assessment of these properties should be on the basis of 30 times the net income which should be worked out by deducting from the gross, peshcush and Cesses only. Right of maintaining an establishment and Irrigation sources are inherent rights vested in the Zamindar consequent upon his right to enjoy the Malewaram. As he is being deprived of these rights through no fault of his why should these be deducted in calculating the net income ? All buildings in Zamindaris should not be taken over. They should be left to the Zamindars. Some of them may be useful for starting industries with local effort and enterprise. Speaking of the Zamindaris alone, there are eleven in the district of Ganjam with an annual

income ranging from Rs. 6,000/ to rupees seven lakhs. In addition, there are many Malukdaries and other proprietors. By acquiring these properties the State will make an enormous income. Cost of management will be practically, nothing as the whole thing can be managed by the executive officer with a few Revenue Inspectors and peons. Rent Courts need not continue and this will be a great saving. Therefore, even from a business point of view the State stands to gain enormously and they should not grudge the payment of a liberal compensation to us, otherwise, it will be something like robbing Peter to pay Paul.

15. Bengal, Bihar and Madras have suggested varying grades of payment. The several grades are not easily workable and require a Tribunal or a Special Officer to work out. I would, therefore, suggest that only one uniform rate should be adopted. Invidious distinctions should not be there. Whether a man owns large extent or small extent, he must get his quid pro quo for what he is parting with. The present cost of living Index being over 270 points as compared to 100 in 1939 on the basis of pre-war prices, most of the Zamindars are not able to make both ends meet and will be wiped out of existence if adequate compensation is not paid. Therefore, the rate for compensation should be an uniform rate of 30 times the income, calculated on the Malewaram and forests, waste lands etc., and all other lands over which Zamindars have existing and reversionary rights. There are prospects of mineral wealth in Zamindaries and these should be separately assessed and compensation paid.

16. In the matter of payment the entire amount should be made payable in cash at the time of acquisition only. This is a case where the State is compulsorily or forcibly taking over certain rights in land possessed by certain individuals; in other words, the State is acquiring their rights for a public purpose. I put this simple question: Does the State while acquiring anybody's right over land ever think of paying him in instalments or in Government Bonds or in dribblets or through Malikana? So far this has not been the history of all land acquisition proceedings. Here is a case where interest in land is sought to be acquired and, therefore, I would plead in the name of fairness and justice that such rights should be acquired through payment of cash fully at the time of acquisition, but not through instalments or through Government Bonds or Malikana, as the case may be. When particular rights are acquired by Government in the usual course of business, does the Government pay the cost of these rights by instalments or by Government Bonds or even by malikana (allowance or pension) and is it not a fact that such payments are made entirely through cash? Therefore, does it not follow that while forcibly acquiring a valuable right of the Zamindars the Government should pay the

cost price of same in cash ? Amounts paid as Malikana, allowance or pension is no compensation.

17. It is worth noting what political economists say of acquisition and compensation.

Professor Sidgwick maintains that :—

“ the general security of property seems to be sufficiently maintained, if every landowner who is expropriated receives from Government in full what the value of his land would have amounted to apart from the special need that is the occasion of the expropriation. And in applying this principle we must of course treat the rights of temporary occupiers similarly to those of owners, and include along with the land any buildings or other ‘ immovable ’ products of labour that may be attached to the land.”

As the “ whole value of thing ” can hardly be estimated and the subjective element of value (that is, the value derived from attachment or association or peculiar taste) is difficult to be measured, Professor Sidgwick was in favour of applying an average outside standard, and recommended that “ some compensation should be given for special subjective value of a thing to its expropriated owners ”.

The Liberal Land Committee of England said :

“ We have obtained a mass of information of farm sales effected in the years 1913, 1918, 1919, 1922 and 1924 in different countries of England and Wales. We find that the average for the five years taken together is in the case of different countries 21 years, 23 years, 22 years etc. Be it observed these figures represent so many year’s purchase not at actual income, but at gross rent. On the basis of the calculation, 25 years gross rent is equivalent to $38\frac{1}{2}$ years’ net rent ”.

Mr. Fawcett in his ‘ Political Economy ’ writes :

“ Nothing in our opinion can be more unjust than for the State to take possession of land without paying the full market price to its owners ”. And he favoured the rate of compensations at 30 years’ purchase ”.

Mr. Mill who was a radical thinker of England advocated that :—

“ The claim of the landlords is altogether subordinated to the general policy of the State ”, did agree that their (landlords ’) claim to compensation was “ indefeasible ” and that it was due to landowners and to owners

of any property whatever, recognised as such by the State, and "that they should not be dispossessed of it without receiving its full pecuniary value or an annual income equal to what they derived from it". Thus the rate of compensation should be governed in a way so that the respective landlords may be assured of "the annual income equal to what they derived from it".

Ireland within the British Commonwealth of Nations illustrated how under the Wyndham Act the nationalisation of agricultural lands was completely carried out with a view to make peasants, proprietors of land. Although the principle of State purchase was accepted in Ireland in the year 1871, it could not be completed till the year 1903. In the year 1903, the Wyndham Act was passed providing the purchase price of a holding at a rate varying from $18\frac{1}{2}$ to $24\frac{1}{2}$ years purchase of the rent.

18. The above citations will exemplify the fact that the elimination of intermediary interest cannot be effected without due compensation being paid to them. A compensation of One Rupee or any annuity by way of Malikana is not only a mockery but a fraud on the Statute.

19. In support of the grant of Malikana the Report relies upon Regulation 8 of 1793, the instances of the Raja of Khurda and certain other instances where British administrators granted Malikana to the excluded or deposed proprietors. This idea of Malikana seems to have loomed large in the eyes of our politicians, since the time when the States merged into Orissa, and the Rulers thereof were coerced to receive an allowance or Malikana which in modern times is dignifiedly designated as Privy Purse. It is alleged in Para 39 of the Report that the bigger Zamindars of permanently settled estates had pleaded with the British Government to be treated like their brother chiefs of the Garjats. This is not correct. The last thing that the Zamindars of permanently settled estates ever want is to be treated as Rulers. Why should the owner of a Permanently Settled Estate who has proprietary rights ever want to become a mere constitutional Ruler? Malikana in Bengal and North West Provinces, is an allowance, to an ex-proprietor who is kept out of his Estate or who has lost all but the vestige, according to Bihar. In Baden Powell's Land Tenures, Vol. 2, page 84, the term is used for an allowance to an excluded owner if he refused the settlement. How, under any stretch of imagination, can it be said that we, the Zamindars, are excluded Proprietors or rebel or recalcitrant Proprietors, whose Estates are being taken away or resumed by the Government for misconduct and the like? On the other hand this is an attempt to confiscate our properties and deprive us of our ancient ancestral heritage. To put them on a par with the excluded Proprietors at

the time of the Permanent Settlement or with the recently deposed Rulers of the States is doing great injustice to them and amounts, if I may say so, to tinkering with them, and not solving the problem. If you depose, you get what was yours. If you acquire, you get what was not yours. This is the simple difference between the two. The oft-quoted phraseology that Zamindars were only rent collectors does not hold water even for a moment and is opposed to historical facts. If Zamindars were mere rent collectors, the question of acquisition does not arise at all. You can terminate their services by a simple notice to quit. They are legally competent to transfer their Estates by mortgage and sale unlike the Rulers. Zamindaries were attached and sold by the Government for arrears of Peshcush due for the simple reason that the Zamindars had proprietary rights, and all incidents attached to ownership and user of property. Zamindaries have been also mortgaged and sold to private persons. Zamindars have also purchased other Zamindaries. Section 299 of the Government of India Act 1935, begins with saying that no person shall be deprived of *his property*, and that neither the Federal nor a Provincial Legislature shall have power to make any law authorising the compulsory acquisition for public purposes, unless the law provides for the *payment of compensation*. This compensation cannot be a substitute for an annuity or an allowance for maintenance or a solatium as proposed by Mr. Prakasam, or a Malikana as our Chairman chooses to put it. It is and should be a price paid for the value of the property and rights acquired.

In *Jagat Deo Narayana Singh Vs. Bal Deo Sing Deo*, 1922 P. C. 272, the Privy Council held that Malikanadari right could only come into existence by arrangement. *It arises out of a contract*. It is, therefore, not a unilateral act but a bilateral one. So if the proposal to give Malikana is not accepted by the Zamindar, there can be no question of the grant of a Malikana at all.

In *Surapat Singh Vs. Bhupendra Narayana Singh*, the Patna High Court (1937 Pat. 165) held that a Malikanadar claims a title independent of the landlord as the Malikana had its origin at the time of Permanent Settlement. Either he claims that the land was excluded from the Permanent Settlement or that by an arrangement between the Government and the man with whom the Permanent Settlement was made, a certain land was set apart for the ex-proprietor as Malikana.

The above authorities are sufficient to dispel the idea once for all that Malikana can be equivalent to or a substitute for compensation. Compensation is that equivalent in money which is paid to owner and occupiers of lands taken or injuriously

affected for public purposes, under Act of Parliament e. g. the Land Clauses Consolidation Act 1848, 8 and 9 Vic. C. 18. We do not want this Malikana nor shall we take this Rupee One compensation so generously provided. We only ask for justice, fair play and equity which are our due.

20. The recommendations in the Report seek to raise the standard of the actual cultivating classes in order to make them peasant Proprietors, and fit them to administer the village Panchayats or the Anchal Sabhas. In so doing a narrow conservatism is bound to come into existence in the little village units. As a direct result of these changes, the middle class which has hitherto been acting as a medium between the State and the cultivator will disappear from the social order. When landlordism is set up directly with the tillers of the soil, the State would be practically placing agriculture in the hands of those who are least fitted to carry on agricultural operations with modern scientific methods. Such a state of things is a distinct loss to the State. A State requires not only actual men to cultivate, but also men of education and position to organise improved agriculture. The suggested reforms are not conducive to promote the improved methods of cultivation. The existence of these educated classes, besides being an asset to the State is a means of social attractiveness to life in the country. Some Zamindars like me are maintaining Agricultural Demonstrative Farms, though incurring loss, but for the purpose of imbibing better agricultural sense on the ryots. The so-called Anchal Sabhas will be deprived of all this knowledge and experience and at the same time persons like us who have a genuine interest in promoting agriculture will be driven away to other avocations. The view of Sir John Russel, D. S. C., F. R. S., as would be seen from the work on the Imperial Council of Agricultural Research was indicated thus :—

“ Perhaps the most serious of all the difficulties confronting Indian agriculture is the lack of an agricultural aristocracy and of an educated agricultural middle class. Many of the great advances in Western Agriculture are due to men of this type : highly competent agriculturists, rooted in the soil, with a thorough knowledge of crops and live-stock and a shrewd idea of how to get the most out of their land ”

21. One of the arguments put forward in favour of the Zamindari abolition is that after the Zamindars disappear food production will increase. This is a dream. To illustrate briefly, if an acre of Zamindari land now producing 10 maunds of any produce can produce say 20 maunds in the same area after the Zamindars have left, abolition of their class would have been very well justified. But I will

assert, and some day the present day politicians will realise, that the abolition of the Zamindaries far from increasing food production will diminish the production and instead of 10 maunds to the acre you will produce a far smaller quantity. I make this bold statement as I am convinced of the state of things that are to come. Most of the Zamindari rents are settled to cash and the Zamindar, in his own interests to see that he realises his rents easily, makes every effort to provide irrigation sources, to introduce improved methods of cultivation and to encourage increased production. Knowing, as I do, the enthusiasm and the promptness with which the officials of this Government work, I assert that all such incentive will disappear and there will be nobody left at the spot to attend to the welfare of the tenants. .all this resulting in diminished food production only, compared to what it is even now.

22. It is stated that a new Heaven and a new earth will be created for the tenants as soon as the Zamindar disappears. Sometime ago in a certain Province propaganda was going on that if Zamindaris are abolished every tenant's house will be installed with a free radio set and an electric bulb along with a free supply of current. This is indeed most attractive. But for all this new Heaven and new earth that the tenants will enjoy the moment the Zamindars disappear, I think there should be a 'betterment tax' imposed upon them. The State is now anxious to wipe out a very ancient class of people who have history and tradition behind them to justify their present existence. If the State finds that it cannot afford to be fair and just to this ancient class of Zamindars by way of paying them adequate compensation the State can levy what is called the 'betterment tax' on the tenants and this will help the State financially to pay a reasonable and just compensation to the Zamindars who are going to be deprived of their properties. Even without this, the Government will make quite a big income from the Zamindaries to enable them to act with fairness and justice to the class.

23. The abolition of Zamindaries throughout India, simultaneously, will throw the society into a pell-mell. A large number of Estate employees, dependants and the erstwhile Zamindars will be thrown out of employment. Till they are able to stabilise their position, disorganisation and chaos are bound to prevail. This will be an additional factor to the present day economic discontent, due to high prices, control of commodities by the Government and the incidental corruption, not to speak of communal troubles and interprovincial strifes. The Indian Government has so far not been able to control the political situation. Times have not yet returned to their normal conditions. We are now passing through times worse than during the war. Today it is the question of Zamindars; tomorrow it may be the Industrialists

and Capitalists. No one is now in a position to foresee what changes are likely to occur in the near future. In the present order of things there seems to be no hope for the future. The future is uncertain, unsafe and gloomy. In order to preserve a state of peace and allay panic, it is important that society should not be disturbed too radically. The Zamindars, if fairly and squarely dealt with, will continue to serve as a stabilising influence in society which they have, by their tradition and position in life, so far achieved.

24. It is provided in the Report that for the purpose of determining the Malikana the Land Reforms Commissioner will collect the necessary data after a general notification in the official Gazette to all proprietors etc., and after that will award the same after hearing such objections as may be provided for in the Rules. Continuing, the Report says that there will be an appeal from his decision to a special Tribunal consisting of High Court Judge and another official and a non-official whose decision will be final. It is also stated that no Civil Court will have any jurisdiction in this matter. I am really surprised at the lack of confidence our own politicians are showing towards our own High Court. When a full-fledged High Court consisting of the most eminent personalities of the legal profession is functioning in our own Province, I wonder why a Special Tribunal should be appointed to deal with these matters, thereby, giving a Party Government an unnecessary handle to bestow special patronages. My submission, therefore, is that the ordinary Courts of the land should be the competent authority to deal with such cases of appeal after the decision of the Land Reforms Commissioner. Therefore, the existing Civil Courts should not be deprived of their normal jurisdiction of taking cognisance of such matters. Of late our Governments, seem to be so nervous of our own countrymen that they do not want their acts to be tested by Civil Courts and, therefore, legislation, in general, is so drafted as to deprive the Courts of any jurisdiction. In other words, executive justice but not legal justice is intended to be given. This seems to be more than a Hitlerian method of dealing with matters and I am surprised that our own Government consisting of our own men should have this sense of distrust in our own Courts including the High Court which also consists of our own men. The Zamindars would rather have the Civil Courts and the High Court as the Appellate authorities against the decisions of the Land Reforms Commissioner than special Tribunal etc. which have been recommended, even though the normal procedure of going through the Civil Courts and then to the High Court may be more protracted.

25. The Committee has not considered some of the complications involved in the proposed change over of the Estates from

the hands of the existing Zamindars to other authorities. It is well known that some of the Estates are encumbered and that these encumbrances were not created now. They were created long before ideas of Zamindari abolition were conceived. There are cases of purchases of entire estates out of borrowed capital. When these Estates now change hands is it not reasonable and fair that they should be taken over along with the existing encumbrances and that the dispossessed Zamindar should not be penalised in the compensation or Malikana that is payable to him for what he did some years ago with the best of intentions, believing, as he did, that in an agricultural country like ours land was the best investment? Left to himself, the Zamindar was confident of discharging the debt in due course but when extraneous conditions are suddenly thrust upon him why should not the encumbrance go with the estate to the new owner whoever he may be and why should the encumbrance be a burden on the compensation or the Malikana of the dispossessed Zamindar?

26. The formation of Anchal Sabhas with administrative powers may have the effect of diverting some of the educated men in towns who are mostly unemployed to converge to the villages. Thus the villages may stand to improve and may in course of time grow as centres of learning and culture. But, will these results follow immediately on the wake of the introduction of these reforms? For one thing, I am emphatic that the villagers are yet to know the principles of democratic rule. It is not a rule that has come to us, by the process of any political evolution and thought. The only form of Government that has been known to India up to now is rule by one man. Under the rule of one man, the villagers have known how to organise themselves and work for the common good. Thus, in ancient times, the villages worked and flourished as self sufficient units. But now, the form of Government at the top is rule by many or democracy, a form of Government unknown hitherto in India. This is one of the reasons why we find that the popular Ministries in the Provinces have not been working satisfactorily. Their policies are being weighed in balance by the country and found wanting in actual practice. Unable to realise the cold realities of life, they are launching out reforms in the name of rural reconstruction, post-war schemes which the country is not in need of; and they are indifferent to such reforms which the country is in urgent need of. Food and cloth are the first essentials of life. They are not available to the average Indian of ordinary means throughout the length and breadth of the country from the Himalayas to Cape Comorin. When he is hungry and ill-clad, how can you expect him to realise the importance of building of capital cities, the construction of Hirakud Dams, and the supply of power to the

villages either from Duduma or Hirakud, your multiplication of departments and so on ; no doubt schemes of great magnitude and utility but when the people's Government, the Congress Government, are not able to give him food and clothing to keep his body and soul together, what does it avail to him, the achievement of the Government in the matter or reconstruction of the country ? Mahatma Gandhi, the Father of the Nation, to whose work our Governments owe their present position never contemplated that his camp followers were so ill suited for the governance of the country. In addition to the high cost of living which hits the common man, there are other obnoxious things which have crept into the ordinary life of the country and these are killing the very soul of man. Black marketing, nepotism, favouritism and corruption in the governing classes have become the common features of the day everywhere. For example, they have gone on to such a pitch in the neighbouring province that the Prime Minister of India was obliged to fly there to see things for himself. Things are no better in another neighbouring province and elsewhere. Hon'ble Pandit Nehru's pronouncements during his recent visit to Calcutta are in no way complimentary and encouraging to the persons responsible for running the Government. When such is the state of things at the head, how can we expect these little autonomous units (Anchal Sabhas) manned by the uneducated villagers, accustomed to a mediaeval mode of living, untouched by modern standards of decency and life, still bigoted to the extreme, caste ridden and unwilling to move from the ancestral home though starving, to earn better wages in the neighbourhood, to work out the republican form of Government imposed upon them by persons of little practical experience of actual conditions prevailing in the rural areas ? As it is, the villages are factious-ridden, very intriguing and their morale is at a very low ebb. There is little or no sense of responsibility or civic life among them and we all know how inefficiently Co-operative Societies and Local Bodies are being run now. This is a thing known to us all and it will be no wonder if in the new Anchal Sabhas, where also factions and deadlocks will be created, the same failings will be exhibited and repeated. So the first thing that is to be done in the existing state of affairs in the country is to bring about a scheme of social reform by making elementary education compulsory amongst the villagers and to introduce scientific ways of living by giving wholesome water and food to raise their stamina and health, by providing adequate medical relief and so on. At present there are no dispensaries and doctors to serve many hundreds of square miles of the land. Given this impetus the people will rise morally and economically in course of time and as a necessary consequence of evolution, they, themselves, will bring about the reforms needed

by the country. This is the Ram Raj which Mahatma Gandhi was aiming at. I would, therefore, appeal that the present scheme of reforms may be kept in abeyance so the country may be saved from disastrous consequences. In closing I would only quote the famous lines of Oliver Gold Smith :

“ Ill fares the land to hastening ills a prey where wealth accumulates and men decay ”,

R. C. M. DEO

The 18th July 1949

Rajah Bahadur of Khallikote



APPENDIX I

Questionnaire of Land Revenue and Land Tenure Committee, Revenue Department, Government of Orissa

ITEM NO. 1 OF THE TERMS OF REFERENCE

1. It is the considered opinion of the Prakasam Committee and the Floud Commission that there is no fundamental difference between 'land revenue' and, what is technically called, 'rent' under different tenancy acts.

[In the words of the Madras Board of Revenue (1890), the universal distinguishing character as well as the chief privilege of this class of people (raiyyats) is their exclusive right to the hereditary possession of the usufruct of the soil, so long as they render a certain portion of the produce of the land in kind or money as public revenue and whether rendered in service, in money or in kind and whether paid to Rajas, Jagirdars, Zamindars, Mittadars, Srotriyamdars, Inamdars or Government Officer, such as, Tahsildars, Amildars or Tanadars; the payments which have always been made by the raiyyats are universally termed and considered "the dues of the Government"].

What are your views about it ?

2. It has been authoritatively held that under both Hindu and Mahammadan rule, the State never claimed an absolute or exclusive ownership of the land and definitely recognised the existence of private property in it. (Report of Taxation Inquiry Committee—Paragraph 80),

What are your views about it ?

3. If you accept the view mentioned in the preceding question—

- (i) would you conclude that the British did not succeed to any rights of absolute ownership in land ?
- (ii) would you conclude that in the Permanent Settlement the British could not and did not give the zamindars any such rights of absolute ownership ?

[In the great rent case, Mr. Justice Trevor described the position by saying "The Zamindar enjoys his estate subject to and limited by, these rights and interests of the raiyyats and the notion of an absolute estate is as alien from the regulations as it is from the Old Hindu and Muhammadan Laws]

[Weekly Reporter, Vol. III, Act X, Page 29, case No. 2064 of 1864]

4. Do you subscribe to the view that the King's share of the produce of the land—technically called 'land revenue' or 'rent' in different circumstances prevailing under different land revenue systems—of the nature of a tax payable to the State and not of rent payable to an absolute landlord by a tenant at will ?

5. On what principles should assessment on land be based, in so far as it falls on the actual cultivator ?

Do you think that the assessment should be in cash ? If so, would you like to make an exception in favour of charitable and Religious Endowments ?

On what basis should assessment be made on ?

- (1) Chandana holdings,
- (2) House sites in agricultural holdings,
- (3) Lands included in Revenue villages or Khasmahal or Cantonment areas in Municipal areas.

6. Even after the assessment on land is placed on a uniform basis, so far as it falls on the raiyat or cultivator, the question of diversity in the proportion of the total land revenue that is actually paid into the public exchequer as Government demand, will still remain, owing to the different systems of collection of land revenue through different agencies, as for example, Government servants paid on a cash basis as in the raiyatwari areas, or Government agencies remunerated on commission or pay basis, either in cash or in kind or both, like the Sarbarakars, Gauntias, etc. in Government Khasmahals and Khalsa villages ; or Zamindars Malguzars, etc., who are required to pay only a portion of the total revenue collected by them to the Government as Sadarjama or Peshkush as in Zamindari areas.

(At present, the system of land revenue assessment shows wide variations in different parts of the country. The most important is the major distinction between zamindari, ryotwari and Mahalwari systems. Under the zamindari system, the unit of assessment is the village or the estate and the land revenue is a fixed sum payable in perpetuity or for a term of years on the principle that the State is entitled to a share of the rental. The share of the State varies between 9/10th and 10/11th of the rental in Bengal, Bihar and Orissa and between 1/3rd and 1/2 of the rental in Madras. Under the ryotwari system, the field is taken as the unit of assessment, and the land revenue is usually based on the 'net produce'—a term which has different connotations in different provinces. In Madras, the net produce is determined at each Settlement which usually takes place once in 30 years, by estimating the money value at the prices prevailing during the preceding 20 years of the normal yield for each type of soil assessed after making suitable deduction for seasonal variations, unproductive areas, costs of cultivation, etc. The share of the Government may be up to 50 per cent of the 'net produce'. Under the Mahalwari system, the assessment is based on 'net assets' which are defined as the estimated average annual surplus produce of an estate after deducting the expenses on account of cultivation. The estimate of surplus produce is framed by taking in to account the actual share of the produce received by the landowners. The result is that 'net assets' are calculated on landlords' rentals and cultivators' profits. The maximum demand of the Government was originally fixed at 1/2, but was subsequently reduced to 1/4th)

(Report of the Prices Sub-Committee of the Policy Committee on Agriculture, Forestry and Fisheries—para. 348 at pages 167-168.)

State your experience of the system or systems with which you are acquainted.

Is it desirable or possible to adopt one uniform system of revenue collection ? If not, can you suggest any reform of the existing systems in order that the net revenue that comes to the public exchequer bears the same proportion to the total assessment on land ?

Do you advocate a form of taxation on agricultural income ? If so, give your detailed suggestions ?

7. Do you subscribe to the view held by the Prakasam Committee that in permanently settled areas where the Peshkush or amount payable by the landholder was fixed "in perpetuity for ever and ever," it was intended that 'rents' also should be so fixed in perpetuity ?

State your grounds for holding views for or against the above.

8. Are you in favour of fixing 'rents' in perpetuity or revising them at intervals ? If your answer is in favour of the latter, state the interval that you advocate with reasons. Relative advantages and disadvantages should *inter alia* be discussed, the present-day inflation being kept in view.

Are you in favour of fixing a maximum scale up to which 'rents' may be enhanced in future? If so, on what grounds and on what basis?

9. Should 'rents' be correlated to prices? Can you suggest any method by which the 'rents' will be automatically enhanced or reduced as prices rise or fall?

There are certain provisions under Tenancy Laws, Government rules and orders about enhancement, reduction, and alteration of rents. Do you consider them to be satisfactory? If not, what changes, would you suggest?

10. On what principles should assessment be made on waste lands reclaimed for cultivation?

11. Do you consider the existing systems of remissions and suspensions of rents and land revenues satisfactory? If not, state remedial measures and give concrete proposals for adequate relief, due regard being had to natural and other calamities. What procedure would you suggest for giving effect thereto?

12. What do you consider to be the average yield and cost of cultivation per acre of (1) paddy, (2) pulses, (3) jute, (4) sugarcane and (5) other staple food and non-food crops for different classes of land? Give details of your actual experience and observation.

13. In respect of some special classes of tenures and tenancies, 'rents' or 'revenue' appear to have been assessed not on principles underlying 'rents' of ordinary agricultural holdings and tenures but on some arbitrary basis due to historical reasons or some special contractual obligations. Do you consider such 'rents' or revenue 'inequitable' so far as the State is concerned? If so enumerate such tenures and tenancies and give your suggestions for removing these anomalies.

14. Do you consider the existing provisions of Tenancy Laws relating to time, place and mode of payment, collection and appropriation of rent satisfactory and adequate? If not, suggest remedies and also suggest if there should be uniform provisions therefor or special provisions for special areas.

15. To what extent have the provisions of section 94 of Orissa Tenancy Act and section 186 of Madras Estates Land Act for acquisition of land by landlord been applied within your knowledge?

What use has the landlord made of the land after such acquisition? Has he let it out on rent? If so, on what terms?

ITEM NO. II OF THE TERMS OF REFERENCE

16. (a) Do you think it will be possible under the existing law to eliminate intermediary interests without acquiring them on payment of compensation?

(b) If not, do you think there will be any difficulty in—

- (i) repealing the Permanent Settlement Regulations and
- (ii) taking over under direct Government management of the Estates and lands under private proprietors and paying to the latter a small percentage of the total collections of land revenue; or
- (iii) making fresh settlement with these proprietors by which only a certain percentage of the gross land revenue will be assigned to them to meet collection charges and remuneration for management, while at the same time either divesting them of all control over forests, water-ways, communal lands, markets and waste lands and limiting

their private land only to such areas as are actually cultivated by them, or in the alternative, allowing them to retain these in their control subject to superintendence by a Central or Local Board consisting of representatives of zamindars and tenants and an official chairman ?

Give your alternative suggestions, if any, with reasons.

17. In the opinion of a majority of members of the Floud Commission. "In order to improve the economic conditions of the cultivators, the permanent settlement and the zamindari system should be replaced by a raiyatwari system under which the Government will be brought into direct relation with the actual cultivators by the acquisition of all the superior interests in agricultural land."

What are your views ?

18. (i) Is it not a fact that though originally the actual cultivators possessed the exclusive right of occupancy in the agricultural lands, and (though ignored in the beginning by the early British administrators) were ultimately recognised as owners of the soil by the different tenancy laws as well as under the raiyatwari settlements, a large proportion of raiyati holdings have passed into the hands of non-cultivating classes, thus creating another class of rent receivers and reducing a considerable section of the cultivating classes to the position of rack-rented tenants-at-will ?

[The Floud Commission have observed in paragraph 87 of their Report "It is true that the successive provisions of the tenancy acts have endowed the raiyats with the practical ownership of their land. But a large and increasing proportion of the actual cultivators have no part of the elements of ownership, no protection against excessive rents and no security of tenure".]

(ii) To what extent have raiyati rights passed to the hands of non-agriculturists in areas you are acquainted with ?

What measures would you suggest to correct this tendency ?

19. Is it not a fact that this kind of landlordism under which the actual cultivators in general have absolutely no rights in land is not confined to the so-called zamindari areas, but has spread extensively in the raiyatwari areas also through the process of sub-letting and through the dispossession of the original cultivators by moneylenders and others securing possession of their land ?

If so, do you not think that the mere replacement of the zamindari system by a raiyatwari system on the existing lines will not liquidate this form of landlordism ?

20. Do you consider it practicable to eliminate the non-cultivating raiyat or Pattadar in the raiyatwari areas and bring the actual cultivator under him in direct relationship with the State ? If so, give your detailed suggestions.

21. How would you define the cultivator ? Would you class a person tilling his land by hired labour or by people who are remunerated by fixed cash wages to be a cultivator ? Would you make any distinction between a person getting his land cultivated by persons whom he pays wages in cash or in kind and another who does so through persons whom he pays a share of the produce in lieu of such wages ?

How would you distinguish the case of a person who does not take part in actual cultivation but contributes a share of the expenses for seeds or manures ?

22. How many types of intermediaries between the State and the cultivator do you know of? Please give an exhaustive list of intermediaries below Zamindars, Baheldars, Gauntias and Malguzars and their incidents. Tankidars, Bajeftidar, tenureholders, Shikkimi Kharida and Kharida zamabandidars, Shikkimi zamindars, Shikkimi Lombardars, Mukkadams, Padhans, Istmurari Madhyasatwadhikaries are some of these intermediaries. Please supplement the list according to your knowledge and experience.

23. Do you consider all kinds of Inamdars including minor Inamdars to be intermediaries? If so, enumerate the different categories thereof. If not, please mention the classes of Inamdars who are not intermediaries, with reasons.

24. Do you consider that everybody whose name is recorded as owner of a Khewat is a proprietor holding under the State? How then do you propose to treat small land-owners recorded in Khewats as revenue-free proprietors; who personally occupy or cultivate such lands?

25. Do you think it practicable to bring the cultivator in revenue free estates, for example, Bahel, Amurutmonohi, etc., in direct relationship with the State? If so, what do you propose to do for the elimination of interests that have intervened between the State and such cultivator in such areas.

26. The Flood Commission have recommended in respect of Waqf, Dobotter and other estates, the income of which is devoted to religious, charitable or educational endowments and other religious grants as follows:—

“We are agreed that if Government are to acquire such estate, it would be desirable that the sums which are being paid to the objects at the time of acquisition should continue to be paid”.

What are your views with regard to this?

If you are in favour of making any other special provisions for the above or other trusts, give your concrete suggestions.

Enumerate all trusts and institutions you are acquainted with and specify those for which you are in favour of special treatment.

27. In the event of all the existing intermediaries between the State and the cultivator being eliminated what would you suggest to prevent the cultivator from becoming an intermediary himself by subletting his lands or from selling them to a non-cultivator who will sublet? Detailed suggestions are invited regarding prevention of this danger.

[The Bengal State Acquisition and Tenancy Bill, 1947, contains the following provisions in this regard].

(Clause 82 provides that no holding of a raiyat or portion thereof shall be transferred except to a bona fide cultivator who holds for his family cultivable land of a total area of less than 20 acres or holds less than $1\frac{1}{2}$ acres for each member of his family and the transferred land when added shall not exceed the above area either for his family or for each member of his family, unless such bona fide cultivator takes the land under certificate of Revenue Officer for large scale farming with power-driven mechanical appliances.

Sub-section 2 puts a ban on the division and transfer of a holding of less than three acres held by a raiyat and his family.

Clause 83 lays down that the interest of a raiyat in a holding shall be extinguished—

(1) when he dies intestate leaving no heir

(2) when the raiyat surrenders his land at the end of the agricultural year, after proper notice.

(3) when he voluntarily abandons his residence without making arrangement for payment of rent and ceases to cultivate his land for two successive years.

Clause 84 prohibits the subletting by a raiyat of either the whole or part of his holding and makes all such subleases and other agreements with another person for cultivation in consideration for a sum of money, void except in case enumerated in note below question 28.

Clause 85 limits the rights of a raiyat to mortgage his holding except by a complete usufructuary mortgage for not more than 15 years subject to the same limitations as provided in section 82 above on the transfer of a holding of a raiyat.

Clause 86 extends the right of pre-emption to one or more co-sharer tenants and tenants holding land in contiguity, on the transfer of a portion or share of a holding of a raiyat.

Clause 87 restricts transfer of an aboriginal's holding only to another aboriginal, without contravention of the provision enumerated in clauses 82 and 85 above.

28. How would you deal with a case where an actual cultivator or one who is having his land cultivated by hired labour reverts to crop-sharing arrangement or sublets whole or part of his land either for a specific purpose or for a specific period or indefinitely? Would you distinguish between intentional cases of change of livelihood and hard cases where actual cultivation has been rendered impracticable?

[Exception provided in clause 84 (3) of Bengal Bill. The holding of a raiyat, who is a widow, lunatic, minor, physically infirm or a convict undergoing his term of imprisonment, having no person to look after the cultivation on his behalf, may be sublet if the lease or agreement be for cultivation by another person on payment of a fixed annual sum not exceeding the rent of such raiyat by fifty per cent].

29. State fully your reasons for or against the practicability of elimination of all intermediaries. What in your opinion would be the financial and administrative implication of state acquisition of zamindaries and other intermediaries.

Do you consider that such acquisition would result in—

- (a) advantages to the State,
- (b) welfare of the tenantry,
- (c) growth of agricultural prosperity, and
- (d) increase of revenue and easier collection of it.

30. In the event of abolition what are your proposals for making the middle-class families interested in land? What changes in the existing laws and conditions would you suggest so that the middle-class people may find agriculture profitable and take to agriculture as a profession?

31. What are your suggestions for elimination of intermediaries in Government Estates?

32. Do you consider that all rent-receivers as such should be treated as intermediaries and be abolished as such?

33. How in the event of abolition of intermediaries, should the following *inter alia* be treated ?

(a) Anabadi lands tanks, forests, markets, orchards, etc., of zamindars and tenure-holders.

(b) Zamindars' and tenure-holders' private lands

(c) All other lands not recorded in possession of any tenant but forming part of an estate or tenure.

ITEM NO. III OF THE TERMS OF REFERENCE

34. What in your opinion is the minimum size of an economic holding ? Should it vary from locality to locality according to soil and other factors ? If so, give details for different areas you know of.

What steps would you suggest for preventing further subdivision and fragmentation of holdings and consolidating existing holdings which are considered uneconomic on account of fragmentation ?

35. Do you agree that the existing laws of succession, inheritance and coparcenary rights are detrimental to the continuation of economic holdings ? What suggestions would you make for prevention of fragmentation due to these causes ?

In case you disavour changes in above laws would you, without interfering with the titles of different persons in the holding, like to preserve the compactness of the holding by legislative prohibition of partition ? If so, give your suggestions on the problem.

36. What in your opinion should be the limits of subdivision of existing holdings without detriment to compactness and their economic character ?

37. Whom do you consider should be the controlling authority regarding recognition of subdivision of holdings ? What legislative measures do you suggest for prevention of uneconomic subdivisions ?

38. Do you agree that unrestricted rights of transfer have resulted in undue fragmentation and subdivision ? If so, what restrictions would you propose on voluntary and involuntary transfers and alienations ?

39. Are you in favour of controlling unrestricted transfers with a view to prevent uneconomic subdivision instead of putting general restrictions on all transfers ? Do you propose making an exception in favour of any special classes of alienation ?

40. It is argued that general restrictions on transfer and alienations have affected the credit of the cultivator and acted as a clog to his initiative for improvement of land and other incentives and also encouraged subterfuges defeating the provisions of law. What measures do you propose to guard against these evils ?

41. What special facilities would you like to give to owners of holdings for consolidating them on economic lines ?

What provisions do you propose for consolidation of holdings by exchange, pre-emption, purchase or otherwise ?

42. What are your proposals for creation of economic holdings on individualistic, family or collective basis ?

43. The Bengal State Acquisition and Tenancy Bill, 1947, provides as follows :—

“ *Clause 106*—Where various parcels of land are held by one tenant within one village and such parcels of land or some of them are the subject of separate tenancies such parcels of land shall under the orders of the Revenue Officer be amalgamated into one tenancy.

* * * * *

“ *Clause 107*—The Revenue Officer, on application made to him by one or more co-sharer tenants for the division of a holding and for distribution of the rent payable in respect thereof, may, by order in writing, direct such division of the holding and distribution of rent thereof as he considers fair and equitable :

Provided that—

* * * * *

(b) no order for the division of a holding and the distribution of the rent thereof shall be made which would result in bringing the total area of cultivable land comprised within one tenancy formed by such division, even after amalgamation under section 106 of such subdivided area of land with any other land of the same tenant, to less than three acres ”.

“ *Clause 108*—(1) If no order for the division of holding and distribution of rent thereof can be made under section 107 by reason of the restrictions contained in clause (b) of the proviso to that section, the co-sharer tenant of such holding may apply in the prescribed manner to the Revenue Officer for the transfer of his interest in the holding to other co-sharer tenants thereof on payment of compensation to him.

* * * * *

Clause 109 lays down about “ Indivisibility of a holding of an area of less than three acres amongst the heirs of a deceased raiyat and the right of a co-sharer to transfer his interest to other co-sharers ”.

“ *Clause 110*—(i) Any two or more raiyats having lands in the same or contiguous villages may apply in the prescribed form to the Revenue Officer for consolidation of their holdings and submit along with such application a scheme of such consolidation.

Persons entitled to apply for consolidation of holdings.

(ii) If not less than two-thirds of the raiyats in the village or block of villages which form one continuous area, holding not less than three-fourths of the total cultivable area in such village or block of villages, make an application under sub-section I for consolidation of their holdings such application shall be deemed to be an application on behalf of all the raiyats of such village or block of villages.

What are your views on the above ?

ITEM NO. IV OF THE TERMS OF REFERENCE

44. Enumerate the different kinds of communal lands including pasture, cremation and burial grounds, water-places, houses, institutions and forests in which the village community or a section of it exercise any rights jointly or individually.

45. Are the existing communal lands in the areas you are acquainted with adequate for the purposes they are meant for ; if not, what provisions of law would you suggest for making up the deficiencies ? Do you suggest adoption of measures on the lines of sections 20, 20A. and 20B of “ The Madras Estates

Land Act (I of 1908) " under which the Collector has powers to decide whether a particular land is communal land, or not and the customary rights in such land, to divert disused communal lands to other purposes and to acquire for communal purposes lands not recorded as communal ?

46. Landlords and other intermediaries have certain rights over the usufruct of such lands, water-places, etc. Pending abolition of all intermediaries between the cultivator and the State, what suggestions have you to offer over the regulation of such rights.

47. Who should be the controlling authority for the proper maintenance and administration of common lands for pasture, cremation and burial grounds, water-places, etc., enumerated in question 2 above ? What part should the village community play in such control ?

48. Do you want to fix a minimum percentage of the total village area to be set apart for common lands for pasture, cremation and burial grounds; Melan Paria, Idgahs, communications, etc. ? How do you propose excessive areas, if any, in particular village to be diverted ?

49. Do you consider the village forests in the areas where they exist adequate ? If not, what are your suggestions for the increase in area thereof ?

50. To what extent have the existing rules and orders regarding control, management and supervision of village forests been effective and satisfactory ? If not, suggest remedies. Are you in favour of more State control or more control by the villagers themselves ?

51. Are you in favour of giving more rights to villagers over village forests ? The danger of deforestation may be kept in view in making your recommendation.

52. Who in your opinion should exercise rights to fruits, timber and wood of trees on common lands and forests and fisheries on common water-places used by the community at large ? How should these be regulated ? Should there be legislative enactment therefor ? If so, give your detailed suggestions.

ITEM NO. V OF THE TERMS OF REFERENCE

53. The view has been expressed that unless changes are made in the prevalent system of land tenure, it would not be possible to secure any significant increase in the agricultural production or significant improvement of the standard of life of the cultivating classes. Do you agree with this view ? If so, discuss in relation to each system of land tenure prevalent in your part of the Province, those aspects which, in your opinion, are objectionable as tending (a) to prevent extension of cultivation or irrigation or (b) to prevent the adoption of improved methods of agriculture or (c) to prevent the cultivator from securing a fair return for his labour and enterprise. Outline the changes which you consider necessary and the measures by which such changes can be brought about.

54. Give in detail your views as to how restrictions on transfer in Sambalpur and other partially-excluded areas of the Province have affected the standard of life of the agriculturists there and how they have affected the progress and prosperity of agriculture there in general. What are your suggestions for improvement ?

55. What is the effect of the existing land tenure systems on the aborigines of the Province ? What improvements would you advocate ?

ITEM NO. VI OF THE TERMS OF REFERENCE

56. In the event of State acquisition of intermediary interests—

- (a) on what principles would you determine the assets of each such intermediary interest ;
- (b) what should be the rates of compensation on the basis of such assets ;
- (c) what should be the mode of payment of such compensation ?

57. In computing the net income of the proprietor of any intermediary interest, would you make deductions from the gross income on account of any or all of the following :—

- (i) revenue, rent and cess payable by him ;
- (ii) agricultural income-tax ;
- (iii) collection charges ;
- (iv) average annual expenditure on the maintenance of irrigation or protective works ;
- (v) interests on debts, if any, incurred in the interest of his estate or property ;
- (vi) annual grants to charitable, educational and other public institutions ;
- (vii) grants for maintenance of relatives and servants ?

Would you make deductions on any other account ? If so, please specify them ?

If you advocate deductions on account of various grants under (vi) and (vii) above, do you consider that the State should take over these obligations ?

58. Besides the net annual income, would you take into account any of the following items in determining compensation :

- (i) capital works, such as buildings, roads, embankments or canals which have been constructed in recent years and have not begun to yield revenue ;
- (ii) accruing assets such as waste land ;
- (iii) prospective assets such as quarries and mines ?

59. Do you consider the rates of compensation proposed by the Floud Commission fair and equitable ? If not, what are your suggestions ?

(This Commission recommended ten to fifteen times the net profit of the different interest concerned—vide para. 101 of Floud Commission Report)

60. What do you consider the best mode of payment of compensation ? Do you consider it will be practicable to pay the whole amount of compensation in cash to all classes of proprietors ? What are your views on the alternative modes of payment, viz., (i) annuities payable for a certain period ; (ii) issue of Government bonds of guaranteed face value at maturity carrying interest ?

61. What are your views on the manner of payment provided for in the Bengal State Acquisition and Tenancy Bill, 1947 ?

Clause 39 of the Bill provides for cash payment where the amount of compensation is less than one thousand rupees and for payment either in cash or in bonds of guaranteed face value at maturity carrying interest at the rate of not less than three per centum per annum where the amount is equal to or exceeds one thousand rupees).

62. In assessing compensation, would you make any distinction between permanently settled estates and temporarily settled estates? If so, give your reasons.

63. Do you consider that in assessing compensation, considerations such as (a) how the property was acquired by the present holder and (b) what was the price at the time of such acquisition, should be taken into account?

64. In the event of abolition of intermediary interests, what administrative machinery do you propose in order to undertake the responsibilities that are now discharged by the proprietors, namely, collection of rent, settlement of waste lands, mutations, management of forests, markets, etc.?

65. What are your views on the proposal that all assessments may be made on and collected from the village community as a whole either in kind or in cash instead of from the individual raiyats?

66. Do you consider it practicable to hand over the responsibilities mentioned in Q. 64 above, to an elected Village Panchayat with or without supervision by paid servants of the State?

With or without a Village Panchayat, do you consider it necessary to have village officers to be remunerated in cash or in kind or both or by grant of Jagir lands?

67. Do you favour smaller administrative units (districts, subdivisions and Tahsils) for the purpose of revenue administration? If so, state reasons.

ITEM NO. VII OF THE TERMS OF REFERENCE

68. So long as the existing systems of land revenue and land tenure of this Province continue the following improvements in the matter of management of all or any of the intermediary interests are suggested *inter alia* as an interim measure:—

- (1) State management of such interests on proper lines by suitable legislation.
- (2) Statutory fixation of a proportion of their income for improvement of the estate and welfare of the tenant.
- (3) Management by a Board consisting of officials and non-officials and supervision by a Central Board.
- (4) Legislation for supervision of management by existing proprietors and sanctions to enforce proper keeping of records and accounts, employment of suitable personnel and discharge of certain prescribed obligations.

What are your views?

Other methods, if any, of improvement of the existing systems as an interim measure may be suggested.

69. What interim measures in general do you suggest in the matter of construction and adequate maintenance of irrigation and protective works? What are your views regarding sources of water-supply, roads and other works of rural welfare?

Are you in favour of resonable and proportionate contribution by landlord and raiyats in respect of construction and maintenance of such works ? If so, in what proportion ? If not, what are your views regarding realisation of such cost ?

70. Do you consider it necessary to adopt any special measures to control the management of the estates owned by any of the absentee landlords of this Province ? If so, give specific instances with specific suggestions.



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APPENDIX II.

Abolition of Zamindari

(Memorandum by the Hon'ble Sri Harekrushna Mahtab, Premier, Orissa)

Abolition of Zamindari should be considered from two points of view which are not closely related to each other. One point of view is that zamindari should be forthwith abolished as a step towards creating a classless society, by first eliminating a class which lives on mainly unearned income. The other point of view is that the system of zamindari, whatever may have been its origin and history, has resulted in oppression of tenants, or rather the feeling of it, in many cases and steady deterioration of agriculture in all cases ; neither the tenants nor the zamindars taking any interest in improvement of land and agriculture.

As regards the first point of view, abolition of zamindari as a means to create classless society will necessarily entail considerable confusion which must be got over to have the desired object. The Constituent Assembly and the present law do not permit confiscation of zamindari or any right which the individual possesses today rightly or wrongly. Therefore the question of acquisition of zamindari without compensation is out of consideration. Then the question of acquisition of zamindari with due compensation has not been properly dealt with in Provinces where it has been taken up. When the law and the Constitution lay down that due compensation has to be paid for acquisition of any right, none is entitled to trifle with this provision and skip on it by showing scant courtesy to the principle laid down. There can be no objection to agitating for amending the Constitution and the law. But once a principle is accepted in the law and in the Constitution, it should be carried out honestly and without mental reserve. If one does it and proposes to acquire zamindari, one is faced with serious financial complication which may not be easy either for the Provincial or Central Government to get over in the present circumstances. Therefore it is to be considered whether the question of acquisition of zamindari with due compensation may not be suspended for the time being.

This can be done if some scheme is devised to meet the second point of view which is perhaps more important from the tenants standpoint and also from the standpoint of the national interest at the present juncture. Interest in land and its improvement has to be roused and India's food position has to be improved. In addition to this, there is the most urgent problem of the country—the oppression of tenants. In the present circumstances, the tenants are really the masters of the country in as much as their representatives are in charge of administration. While the tenants control the administration, he should not be under the landlord in any way so far as his land is concerned. This is an anomalous position which has to be rectified as quickly as possible.

If one takes a practical view of the whole problem or a number of problems which have arisen in connection with abolition of zamindari, it is not impossible to devise a scheme which will ensure more interest in land and elimination of oppression or any sense of it, while at the same time leaving aside the question of acquisition of zamindari with due compensation. Acquisition without compensation need not be considered so long as the law and the Constitution are not changed. With this end in view, I venture to suggest the following scheme which appears to me practical and which seems to forestall any complications which the abolition of zamindari will most certainly entail.

OUTLINES OF THE SCHEME

The zamindars should share the management of the estate with the tenants through their representatives and the zamindar who is not liked by his tenants should not be in charge of management in any way. Further, the zamindar should be satisfied with a small portion of his present income which should be assured to him for his maintenance and the remainder of his income should be spent in the estate itself for the betterment of the people. Government also should absolve them from the administration of land revenue and they should wash their hands clean of the revenue derived from Land Revenue. Then the management of the estates should be vested in a Committee of local people, including the zamindar commanding the confidence of the people. This Committee will be in charge of collection of rent and disbursement of the same for specified nation building work. This Committee will be assisted by executive officers lent by Government and Government will have a general supervisory power on these Committees. The Committees will virtually remain in charge of land administration in their areas.

If this outline is accepted it is to be considered how much income is to be assured to the landlords who also have a legal right on the estates. I suggest that the permanently settled landlords should be put on the same category as the Rulers of the Orissa States and their allowance should be calculated more or less on the same basis.

As regards the temporary settled landlords, they should receive 1/5th of their gross collections. All land, except what is owned by the landlord as a tenant, should be administered by the Committee. Mines and forests will be administered by Government.

An area yielding an income of about Rs. 3 lacs as land revenue should be considered as one unit. Permanently settled estates may each be taken as a unit as far as possible.

This Scheme is easy to be put into operation almost immediately without any serious complication in any direction and at the same time assuring the achievement of the best results of abolition of zamindaris.

Note by Sri Nabakrushna, Chaudhuri M. L. A., Chairman, Land Revenue and Land Tenure Committee

In October 1947, the Committee recommended to Government that they should, as a preliminary step to any thorough reform and unification of the land tenure and land revenue system, immediately abolish the Zamindari system in the Province. The measures suggested by the Committee for this purpose were on the lines of the recent Zamindari Abolition Bills passed in Bihar and Madras Assemblies. It has, however, been felt that the mere transference to the Crown of all Zamindari tenures and estates will merely amount to the Provincial Government stepping into the shoes of the Zamindars as we have in the khasmahals in North Orissa or where there has been regular survey and settlement, it may mean the introduction of the raiyatwari system as we have in portions of Ganjam district. This change by itself will not remove the deep-seated dissatisfaction of the people against the present order of things which is not confined only to the Zamindari areas in the Province but is found in an equal degree in the raiyatwari and khasmahal areas as well as in the estates managed by the Court of Wards. Consequently, the Government will soon become every where the target of the attacks of the people which attacks are now levelled against the Zamindars only. Political parties and a very large body of people, namely, the Zemindars and their henchmen who will be adversely affected by the abolition of Zamindari will fully exploit the situation. It is,

therefore, suggested that mere abolition of zamindari on the lines of Bihar and Madras will be wrong and impolitic, if, at the same time, the old system is not replaced by a new one that will be more popular and less liable to be exploited for political purposes. The administration in the khasmahal and Court of Wards Estates may appear more satisfactory when compared to that of the zamindari estates; but in itself and particularly when there will be no worse thing for comparison, it is not likely to satisfy the people because of its centralized control in which the local people have no hand. Land Revenue will easily prove the most vulnerable point and the attacks will be directed to it. Public opinion in India has been trained to look upon land revenue as an inelastic and regressive tax. Even so late as in January, 1948 a committee of very responsible men with the Premier of India at its head has recommended that the present land revenue system be replaced by progressive taxation of Agricultural Income. There seems to be no reason why in these circumstances the land revenue administration should not be thoroughly decentralized and placed in the hands of local authorities subject to the control of the people of the particular area. These areas have to be much smaller than districts or even subdivisions to suit the present range of the villagers' sense of corporate responsibility so that administration will not be considered as something thrust on them by force and the tax paid to it as an unwilling tribute or exaction. This decentralization (or to be more precise deprovincialisation) of the land revenue administration will convert land revenue into a local tax and local taxation is certainly far less vulnerable than any provincial or union tax. In the case of the Permanently-Settled estates we may constitute each of these estates into administrative units. Areas and regions of similar size may be formed in other places. For this purpose we may adopt the Janapada Scheme which is embodied in the Central Provinces and Berar Local Government Act, 1948, after suitably enlarging its scope in order to provide for the decentralization of the land revenue administration. The right of the Provincial Government to collect land revenue will have to be vested in these local Governments which at the same time will be saddled with the responsibility of all development work of the Government in their respective areas which are now being directly handled by departments of the Provincial Government, e.g., Education, Public Health, Medical, Agriculture, Veterinary, etc.; Planning, expert supervision and audit will, of-course, remain a provincial responsibility in the hands of the Provincial Government. In order that the scheme may not prove risky and impracticable at the early stages, it has to be provided that Government officers will act as Chief Executive Officers with sole executive authority, under these local bodies.

The proposal, therefore, is that instead of the Provincial Government stepping into the shoes of the zamindars these local authorities responsible in the first instance to the people of the localities concerned should not only be vested with all the rights and powers of the zamindars but will also be vested with the right to collect land revenue which has been exercised by the Central ruling power in the land since time immemorial and by the Provincial Government since the time land revenue was made a Provincial Department in 1877. Land Revenue will thus be converted into a local tax and that will be in keeping with the trends of modern taxation. It may be noted that the Grama Panchayat Scheme can be easily and nicely fitted to this picture. For the purpose of abolishing the zamindari system and replacing it by the one indicated above it will be necessary to pass two laws simultaneously—

- (1) one to provide for local Government by constituting Anchal Sabhas in Orissa and to provide for the decentralization of the land revenue administration; and

- (2) the other to provide for the transference to the local Governments or Anchal Sabhas of the interests of the proprietors and tenureholders in land and of the mortgagees and lessees of such interests.

NOTE :—Provincial Government may take upon themselves the liability of meeting the cost of compensation in the first instance and provision may be made in the new law for the payment of annual contributions by the Anchal Sabha to the Provincial Government for a specified number of years to enable the latter to discharge this liability.

As soon as these new laws are made, the Provincial Government should constitute the Anchals throughout the Province and appoint Chief Executive Officer to be known as Pradhan Karma Karta for them who shall start functioning with Anchal Sabhas formed by nomination [section 6 (5) of the Central Provinces and Berar Act]. Till arrangements are completed for the transfer of all the responsibilities from the District and Local Boards and the departments of Provincial Government to the Anchal Sabhas, the Chief Executive Officer will function more or less as Managers of Court of Wards estates and collect the land revenue on behalf of the Anchal Sabhas. In this interim period the Provincial Government should have the power to appropriate 50 per cent of the revenue. It is hoped that this interim period will not be long. It should be possible to transfer the responsibilities and also to complete the arrangements for holding elections for the Sabha in the course of one year.



APPENDIX III

The main provision of the Central Provinces Act, which will be followed in general are given below :—

CHAPTER III

Section 10—Disqualification for being a member.

Section 11—Provincial Government's power to fill up vacancies.

Section 12—Term of Sabha and the office of members.

Section 13—Election of Chairman and Deputy Chairman. (except that the first Chairman and Deputy Chairman should also be elected and not nominated)

Section 14—Casual vacancies.

Section 15—Term of office of Office-bearers.

Section 16—Resignation of Chairman, Deputy Chairman or member.

Section 17—Declaration of acceptance of office. (except that the declaration shall be made only before the Anchal Sarvadhikari or a Magistrate.)

Section 18—Removal of Chairman, Deputy Chairman, or member.

Section 19—Disability of Chairman, Deputy Chairman, etc., being legal practitioner to appear in certain legal proceedings.

Section 21—Bar against being office-bearer of any other local authority.

Section 22—Election petitions.

Section 23—Appointment of standing committee.

Section 24—Appointment of Anchal Sarvadhikari.

Section 25—Appointment of a Deputy Sarvadhikari.

Section 27—Deputy Sarvadhikari to exercise powers and perform duties of the Anchal Sarvadhikari.

Section 30—Grant of leave of absence to an Anchal Sarvadhikari or Deputy Sarvadhikari.

Section 31—Anchal Sarvadhikari and Deputy Sarvadhikari not to be interested in any contract, etc., with Sabha.

Provisions of Chapter IV on ' Proceedings of a Sabha '.

Provisions of Chapter V on ' Duties and Powers of Sabha '.

Provisions of Chapter VI on ' Functions of Anchal Shasans '.

Provisions of Chapter VII on ' Property and Liabilities of Anchal Shasans '.

Main provisions of Chapter VIII on ' Officers and Servants '.

Provisions of Chapter IX on the ' Janapada (Anchal) fund '.

Provisions of Chapter X on ' Budget and Accounts '.

Main provisions of Chapter XII on ' Control '.

Provisions of Chapter XIII on ' Relations between Sabha and other Local Authorities in a Janapada (Anchal) Area '.

Main provisions of Chapter XIV on ' Begging, Destruction of Wild Animals, Public Health, Conveyances and Encroachments '.

Provisions of Chapter XV on ' Training of Staff and combination of Services '.

Provisions of Chapter XVII on ' Procedure and Penalties '.

Provisions of Chapter XVIII on ' Supplementary '.

Provisions of Chapter XIX on ' Rules and Byelaws '.



APPENDIX IV

Memorandum on Anchal Scheme formulated by the Land Revenue and Land Tenure Committee

I—FINANCIAL

It is suggested that the financial consequences of the scheme should be worked out in the fullest possible detail and with as much precision as possible. The skeleton budget which was sent to me with the Committee's letter No. 424 LRC of the 22nd September 1948 can in no sense be regarded as satisfactory.

2. The entire scheme, as far as I can judge, seems to be linked up with zamindari abolition. If zamindaries are not abolished, then the existing provincial receipts under the head "Land revenue" supplemented by the income of the District Boards will not obviously be enough to ensure the successful functioning of local bodies of the type of Anchal Sabhas which will be entrusted with the administration of such subjects as medical, public health, agriculture, industries, education etc., at a comparatively high level. It is necessary, therefore, to draw attention to the fact that the position about zamindari abolition is somewhat uncertain. The calculations in the Committee's skeleton budget are based on the assumption that, as has been elsewhere proposed by the Prime Minister, the zamindars would be pensioned off on payment of annuities. There is, however, no legal provision for pensioning off zamindars in this manner and the Advocate General of India has opined that payment of annuities to zamindars cannot be held to be payment of compensation within the meaning of section 299 of the Government of India Act, 1935. If, therefore, it is proposed to take over zamindaries on payment of annuities to zamindars, it will be necessary to proceed with the consent of the zamindars and liquidation of zamindaries will not be completed in a hurry. Its progress will depend on what individual zamindars think of exchanging their zamindaries for annuities guaranteed in perpetuity. It is, of course, possible to legislate for the compulsory acquisition of zamindaries on payment of due compensation, but if this plan is adopted we shall have clearly to borrow heavily; and it is, I think, necessary for the committee to know that the Provincial Government have been advised by the Government of India against incurring heavy loans for this purpose as the raising of such loans would add to the present-day inflation. In any case, they have made it clear that they will not give us any help in this direction.

What I have said above would make it clear that zamindari abolition or acquisition of zamindaries in some way or other is not going to come off in a hurry and therefore if the Anchal scheme is linked up with the question of zamindari abolition, it will be some time before we would find it possible to put the scheme in operation. Then again on the assumption that ultimately funds will be raised by borrowing for the compulsory acquisition of zamindaries and a permanent debt will be created for the purpose, it is not known what the annual interest charges on that debt will amount to. Whether it will be more or less than the annuity of Rs. 22 lakhs which the committee has taken into account in preparing its skeleton budget I cannot say; I suggest, however, that the possibility of our having ultimately to raise a permanent debt in order to acquire zamindaries should be kept in view and at least alternative calculations should be made taking into account the interest charges which we shall have to pay annually in that event.

3. The skeleton budget, further, requires re-examination in certain other respects. The broad financial position is that after acquisition of zamindaries by compulsion or by agreement, the gross rent receipts will amount to Rs. 145 lakhs.

(I have adopted the Committee's figure without attempting to verify it.) Deducting from this amount collection charges at 20 per cent, irrecoverable dues at 2 per cent and either annuities or interest charges, as the case may be (and assuming for our present purposes that these annuities, or alternatively, interest charges will be near about Rs. 22 lakhs), the net amount left over for credit to Anchal funds will be Rs. 91 lakhs a year. At present our gross provincial receipts from land revenue is Rs. 52½ lakhs, but we spend on collection of land revenue about Rs. 11½ lakhs. In other words, our net receipts from land revenue are Rs. 41 lakhs. The Committee has, I believe, accepted that the Anchal Scheme should be designed in such a way as to ensure a saving of about Rs. 41 lakhs in the provincial budget in addition, of course, to the saving of what is now spent on collection of land revenue. This means that for the *additional* activities which the Anchal Sabhas will take up and for the *additional* services which they will render, there will be available a total sum of Rs. 91-Rs.41 lakhs-Rs.-50 lakhs or half a crore of rupees a year. In essence the Anchal Scheme is a scheme of decentralisation; and any decentralisation scheme must of necessity entail a certain amount of extra expenditure for which the justification is better and more effective services. It is suggested, however, that the extra cost of decentralisation involved in the scheme should not exceed about half a crore of rupees a year. If it does, then the provincial finances will be affected adversely. Whether therefore the scheme is financially sound and feasible or not will depend on—

- (a) whether savings can be effected in the provincial budget to the extent to which the provincial exchequer will sustain loss on account of non-accrual of land revenue receipts; and
- (b) whether the extra cost of decentralisation and of the additional services to rural population which the scheme contemplates can be kept within whatever may be left over after setting off these savings against the net proceeds of the land tax and of other taxes and rates which District Boards are at present empowered to levy.

In the skeleton budget of the committee it has been indicated that the present expenditure which Government incur on certain services such as Medical, Public Health, Agriculture, Education and Industries will be taken over by the Anchal Sabhas to the extent of Rs. 30,58,000 and in addition the Sabhas will also take over the entire present expenditure of the district and local boards amounting to Rs. 42 lakhs which sum at present includes Government grants to the extent of Rs. 21 lakhs. In other words, it is contemplated that Government will be saved altogether an expenditure of over Rs. 51 lakhs. If the figures given are correct, then it can be readily conceded that the provincial budget will get adequate relief. I am, however, not clear about the basis on which the calculations have been made and in particular the figure of Rs. 30, 58,000 has been arrived at. On Medical, Public Health, Agriculture, Industries and Education the total sum spent at present from provincial revenue is Rs. 265 lakhs annually and since it is not known up to what level the Anchal authorities would take over these services, it is not possible for me to verify whether the saving of Rs. 30,58,000 shown in the skeleton budget is correct.

There is one other point which should be taken into account in calculating the amount of saving in provincial expenditure. It seems to have been assumed that Government will levy no charges or contributions in respect of the Executive Officers of the Sabhas who will be Government servants, but will be made available to these local bodies free of all charges. If this be the assumption, then the extra expenditure with which the Province will be saddled on account of having to supply these Executive Officers free of all charges will have to be taken into account. Further, the successful functioning of the whole scheme might involve the creation of additional posts at district level

for some of the technical departments, possibly for most of them. Certain other new posts may also be required at provincial level such as an inspectorate, audit staff etc., etc. In other words, the creation of extra co-ordinating and supervising posts in different departments may be necessary both at district and provincial levels. The extra cost on this score must also be taken into account in estimating the net saving in provincial expenditure.

Then again, the skeleton budget seems to proceed on the assumption that if the Anchal Sabhas take over the present expenditure incurred by Government on certain services up to a certain level and, in addition, the entire existing expenditure of District and Local Boards, they will have done enough and there will be no necessity on their part to incur any additional expenditure in order to ensure their successful functioning. This assumption, if it has really been made, is obviously not correct. The services rendered by Anchal Sabhas will reach the rural population more intimately and more effectively than services which Government agencies or District Board agencies at present perform and it is quite plain therefore that such services as medical relief or educational facilities will, under the Anchal Scheme, require very considerable expansion at levels lower than the district level. Actually, the scheme itself contemplates that each Anchal Sabha will have local officials of every nation-building department including perhaps Veterinary and Public Works Department and the whole question is whether the provision of all these extra services will cost more than what will be left over after the required amount of saving has been effected in provincial expenditure. In considering this question a factor which should be borne in mind is that the Anchal officials will have to be of sufficient standing for the duties and functions which it is proposed to commit to them. If, for instance, Anchal Sabhas are entrusted with the running of high schools, the local Anchal educational officer should be a qualified man who is competent enough to inspect and give opinion on high school education.

Another important factor which I suggest the Committee should not overlook is that the States are going to be a part of the Province proper very shortly and therefore the financial consequences of the scheme should be worked out for the bigger Province as a whole inclusive of the States. Rents are reputedly low in the States, but if the Anchal Scheme is introduced throughout the Province, all Anchal Sabhas, whether in the States or in what is at present the province proper must render equal services. *Prima facie*, therefore, it looks as if a proportionately larger amount of expenditure will be involved in the operation of the Anchal Scheme in the States area.

4. For all these reasons it is suggested for the committee's consideration that the financial aspects of the scheme should be gone into in far greater detail than has hitherto been done and a detailed financial statement should be drawn up and referred to the Finance Department for examination. On the materials at present available I have found it impossible to give any opinion either way as to the financial feasibility of the scheme.

II—ADMINISTRATIVE

5. (a) Given certain conditions there will not be, in my opinion, any difficulty about the due collection of Rents, Rates, Taxes, etc. which the Anchal Sabhas will be empowered to levy. These conditions are that in all matters relating to collection the hands of the Executive Officer will be completely unfettered and he will be subject to no control at all by the Anchal Sabhas. The Executive Officer should have certificate powers and should be responsible to the Collector of the district and through him to the Provincial Government. He should have full disciplinary control (including the power of dismissal) over subordinate collection staff such as village officers, revenue inspectors etc. who

will be Anchal servants. Appeals from his decision in disciplinary matters should lie not to the Sabhas but to the Collectors or Subdivisional Officers. There should be no provision in law empowering the Sabhas, as distinct from the Executive Officer, to remit rents or give individual tenants time to pay up arrears or any other concession in matters pertaining to collection.

Presumably the Executive Officer will have to be invested with powers to hear certain types of revenue cases such as those relating to tenancy rights, incidence of rent etc. It should not be forgotten that he may require adequate assistance to enable him to discharge such judicial or quasi judicial duties. The law relating to Anchal Scheme will have to make due provision for the hearing of appeals from the Executive Officer's decision by prescribed authorities. Another matter of detail which should not be overlooked is that the Executive Officer will make large collections which he will presumably remit to the nearest treasury or sub-treasury. Arrangements for the interim guarding of these collections will have to be made and the cost of these arrangements should be taken into account.

(b) Having given the matter careful thought I am of the view that there is no reason to apprehend that the local administration of such services as Medical, Public Health, Agriculture, Industries and Education (to which Veterinary and Public Works should perhaps be added) would in any way be unsuccessful, provided the following assumptions are correct :—

(i) The head Anchal Officers of all these departments should be, like the Executive Officer, Government servants answerable for their day to day conduct to Government and to the authorities of the departments concerned and transferable from any place to any other place within the province. Their subordinates like the subordinates of the Executive Officer may be Anchal servants but it will not do to make the colleagues and co-workers of the Executive Officer servants of Anchal Sabhas. It would, in that case, be impossible to expect good enough men for these comparatively important and responsible posts as Anchal service, as distinguished from Government service, will offer very little prospects of promotion or preferment.

(ii) All these head Anchal Officers of technical departments (whose services will be taken on loan from Government) must be invested with full powers of disciplinary control over (including the power to dismiss) their subordinates who will be Anchal servants. Appeals against their decisions in disciplinary matters may lie either to the Executive Officer or the district head of the concerned department. Possibly, it will strengthen the position of the Executive Officer if all appeals lie to him and this solution may be adopted despite the fact that the arrangement will to some extent militate against departmental control.

(iii) The head Anchal Officers of technical departments should be made administratively subordinate to the Executive Officer subject to this reservation that if the Executive Officer draws up proceedings against any of them, he should not be competent to pass final orders but would only make his recommendations for acceptance by the concerned departmental officer of district rank. Where of course any punishment of dismissal or discharge is contemplated, the proceedings will have to go to the appointing authority who in most cases will be the head of the department concerned. On the other hand, the Executive Officer should be entrusted with the duty of writing the annual confidential merit statements on all his colleagues belonging to technical departments and these reports should be seen and endorsed or added to by the departmental heads of district rank and thereafter by the heads of departments.

(iv) While, however, administrative subordination of all Anchal officials of technical departments to the Executive Officer must be ensured, it will have to be made quite clear to the Executive Officer, by the framing of rules or otherwise, that he is not expected to interfere in so far as technical execution is concerned, that in other words, while it will be for him and the Anchal Sabha to lay down *what* is to be done and *where* it is done, it will be for his technical colleagues, under the guidance of the superior authorities of the concerned department, to decide *how* it is to be done. The rules which I contemplate should make it absolutely clear that technical control over the Executive Officer's colleagues should vest in the district heads of the concerned departments; and while it would be always open to the Executive Officer, whenever he is in doubt about any matter or about the propriety of any action taken by one or other of his technical colleagues, to refer the matter to his colleague's immediate superior authority of district rank, the Executive Officer must in the last resort accept and act in accordance with whatever advice he may receive on such a reference.

(v) The Anchal servants should be recruited by the Executive officer or as the case may be by the Anchal head official of a technical department and all recruitment (except, of course, recruitment of menial servants) must be after due advertisement. Recruitment made by the Executive Officer himself should be subject to the approval of the district officer and recruitment made by other Anchal head officials should be subject to the approval of the Executive Officer.

(vi) The related law must invest the Provincial Government with the power to give definite directives to Anchal Sabhas in any matter including directives to spend specified or minimum sums on specific services, to implement provincial or district policies etc. The law should make it clear that whatever the Sabhas may think of these directives, it will be the duty of the Executive Officer to promptly carry them out even despite opposition by or disapproval of the Anchal Sabhas.

(vii) The Budgets of the Sabhas should be subject to the approval of the district officer who should have the power to dictate such modifications in them as he considers suitable or proper.

(viii) Frequent inspections of Anchal Sabhas will be a matter of prime importance. It should be enjoined on the district officers to inspect all Sabhas in their jurisdiction as frequently as they can and these inspections (which are, I fear, bound to be somewhat irregular) must be supplemented by inspections to be carried out by a headquarters special inspectorate.

(ix) Another important safeguard is the regular audit of accounts of Anchal Sabhas. Possibly, the local audit department will have to be considerably strengthened to enable it to undertake this duty. The extra cost on this score will have to be taken into account in assessing the financial consequences of the scheme.

(x) The law relating to Anchals should provide for supersession and dissolution of Anchal Sabhas by prescribed authorities. In any case the Collector should be invested with the power to set aside objectionable resolutions and decisions of the Sabhas and it should be laid down somewhere that one of the important duties of the Executive Officer will be to bring to the district officer's notice any inappropriate or unfortunate decision of his Sabha in order that the district officer may, if he agrees with the Executive Officer, take prompt steps to set it aside.

(xi) Finally, on the assumption that Gram panchayats will exist side by side with this new type of local bodies, it will be necessary to lay down with as much precision as possible their exact relationship with the Anchal Sabhas.

III—POLITICAL

6. Assuming that most, if not all, of the suggestions and recommendations made above will be accepted, I feel some doubt as to whether this type of local self-governing bodies will satisfy the self-governing ambitions of the rural population or would prove to be 'live' bodies in the successful functioning of which their members will take real interest. If these bodies are under as strict official control as has been visualised in this note—and effective control there must be in view of the large funds which the Anchal Sabhas will operate and in view also of the considerable importance of the functions and duties that will be entrusted to them—it is permissible to doubt whether persons of ability would consider it worth their while to become honorary members of them. So far as the Anchal authority is concerned, the main authority will be the Executive Officer and he and his set of colleagues, who will all be permanent Government servants, will run the entire administration without hindrance or opposition or even interference from the elected members of the Sabha. Even in matters relating to policy the elected members will be liable to be freely overridden by the district officer. The provincial and district development plans will be prepared by the Provincial Government and by the district officers and the Anchal development plans will be mere subdivisions of the district plans. The development programme in any Anchal will be completely chalked out for the Sabha and all that the Sabha would be competent to do is to make minor variations here and there. The implementation and execution of the programme will, on the other hand, be no concern of the Sabhas; that will be almost exclusively the business of the Executive Officer. I am not sure whether in these circumstances it will be advisable or expedient to abolish all local self-governing bodies of the old type, that is, the District and Local Boards. With Anchal Sabhas functioning in circles District Boards as at present constituted may be a superfluity, but for association of non-official public opinion with the formulation of district development plans, it is a point for consideration whether they may not be suitably replaced by some sort of district advisory bodies. In any case, I feel considerable hesitation in sharing the committee's view that the constitution of the Anchal Sabhas on the lines indicated will make the rural public accept the land tax without demur—particularly if, as has been proposed by the committee, the surplus Anchals are made to surrender a part of their receipts for the benefit of those which are deficit.

The 25th July 1949

B. C. MUKHARJI

APPENDIX V

Statements on Financial Implications

Savings

Name of the Sub-head	Amounts which will be saved to Provincial Government consequent on the establishment of Anchal authorities	Page of the Budget from which the amount has been taken. (Civil Budget for 1948-49)	REMARKS
1	2	3	4
	Rs.		
1. Touzi Establishment ..	18,915	57	
2. Taluk Establishment ..	3,615	57	
3. Certificate Establishment	9,645	58	
4. Kanungo Establishment.	52,280	58	
5. Partition Establishment..	6,670	58	
6. Management of private estates.	15,730	58	
7. Management of Government estates.	3,85,000	59	Round figure taken
8. Land Records	50,470	60	
9. Land Registration ..	8,850	61	
10. Minor irrigation works in charge of civil officers.	43,250	101	
11. 25—General Administration—Revenue Commissioner's establishment.	5,500	109	Total of D—B and D—C in the Budget. The expenditure incurred under D—A will not be transferred to Anchal Sabha.
12. (i) 25—General Administration—District Administration—Other establishments— <i>a</i> —Taluk establishment.	3,69,000	110	Round figure taken
(ii) <i>b</i> —Raiyatwari Village service.	2,53,000	110	Ditto
(iii) <i>c</i> —Proprietary estates village service.	2,85,000	110	Ditto
(iv) <i>d</i> —Process serving establishment.	70,000	110	About 50 per cent of the total provision has been left out on account of criminal process.
(v) <i>f</i> —Cattle pounds ..	10,900	111	Round figure taken

Name of the Sub-head	Amounts which will be saved to Provincial Government consequent on the establishment of Anchal authorities	Page of the Budget from which the amount has been taken. (Civil Budget for 1948-49)	REMARKS
1	2	3	4
	Rs.		
13. Direct grant to non-Government Indian Secondary schools.	3,85,000	184	Round figure taken
14. Primary schools ..	4,56,000	185	Total of C—a and C—b—II in round figure.
15. Direct grants to non-Government special schools.	1,04,000	187	Round figure taken
16. Scholarships for primary and special schools.	14,000	188	In round figure
17. Part of Muffasil hospitals and dispensaries to be taken over by Anchal authorities.	2,74,000	231	Round figure taken. (Provincial Government will retain charge of the rest costing them about 7,00,000 annually.)
18. Grants for Public Health purposes.	3,300	251	Total b—A in round figure.
19. Veterinary Hospitals and dispensaries.	1,20,000	362	Round figure taken
Total ..	29,44,125		
Normal grant to District Boards.	17,98,000		
GRAND TOTAL ..	47,42,125		

Loss to Provincial Government

Name of the establishment	Amount which will be lost consequent on the establishment of Anchal Sabhas	Page of the Budget from which the amount has been taken (Civil Budget for 1948-49)	REMARKS
1	2	3	4
	Rs.		
1. Sale-proceeds of waste lands and redemption of land tax.	4,000	9	
2. Fisheries	10,000	9	Excluding approximate figure for town khasmahals.
3. Miscellaneous ..	1,37,000	10	Out of the total amount provided in the Budget the amount received under the sub-head (1) sale of Cadestral Maps, (2) Miscellaneous cash receipts of the Survey and Settlement Department and (3) Miscellaneous receipts have been left out.
4. Land Revenue ..	52,52,000	9	
5. Hospitals receipts ..	7,500	27	Out of the total amount about 50 per cent is supposed to be the rural hospital receipts.
6. Agricultural Income-tax ..	6,00,000	9	About 75 per cent of the present estimate will be lost.
7. Pound Fund Receipt ..	16,000	42	
Total ..	60,26,500		
<i>Deduct</i> —Portion of land revenue due to irrigation not to be transferred.	3,07,150	9	
Net loss ..	57,19,350		

The present income of the Government from B—Judicial—Court-fee is in the neighbourhood of Rs. 15,00,000. A part of this income will naturally disappear after the abolition of zamindaries as there would no more be the present large number of rent suits and the Land Registration Department will no longer be maintained. As against the loss of this income the Government will also be saved the cost of maintaining the present establishment for rent courts and the Land Registration Department. If all annuities are not capitalised and paid off shortly in place of the Land Registration Department, a department should perhaps be maintained for mutation in the register of annuitants in case of death and transfer by bequest. The cost of establishment for this purpose may perhaps be met from the earnings from court-fees. After abolition of zamindaries some income will still be available to the Government in the shape of court-fees in the cases instituted by revenue officers for arrears of land revenue to be known as local tax. As so many factors enter into the calculation of showing what loss or saving would be caused to the Government on account of court-fees, this item has been left out of account. It is considered that the loss and the saving that may result to the Government on this account may perhaps cancel each other.

Total Budget of Anchal Authorities

Receipts		Charges	
	Rs.		Rs.
Land Revenue ..	1,45,00,000	Cost of collection at 25 per cent. ..	36,00,000
Present income of the District Boards, Taluk Boards and Local Boards from local taxes. ..	21,00,000	Irrecoverable at 2 per cent. ..	2,90,000
		Malikana ..	18,00,000
		Present expenditure incurred by the Government on Medical, Public Health, Agriculture, Industries and Education excluding Post-war grants at rural level. ..	14,00,000
Total ..	1,66,00,000	Present expenditure of the District Boards etc., excluding post-war grants. ..	39,00,000
		Total ..	1,09,90,000
Receipts ..	1,66,00,000		
Charges ..	1,09,90,000		
Balance ..	56,10,000		

Further saving to Government in officers

At District Headquarter 6 Deputy Collectors and 6 Sub-Deputy Collectors will be reduced.

At Subdivisional Headquarter and in .. 18 Sub-Deputy Collectors will be reduced and 15 Taluk Officers of the rank of Sub-Deputy Collector will be reduced in South Orissa (excluding Ganjam Agency).

Therefore altogether 6 Deputy Collectors and $6+18+15=39$ Sub-Deputy Collectors will be reduced.

Deputy Collectors—

Average pay per month for each Deputy Collector is Rs. 450

Average pay per month for 6 Deputy Collectors is Rs. $450 \times 6 =$ Rs. 2,700

Average pay per year for 6 Deputy Collectors is Rs. $2,700 \times 12 =$ Rs. 32,400

Travelling allowance at Rs. 600 for each Deputy Collector for a year is Rs. $600 \times 6 =$ Rs. 3,600.

Hence total amount is Rs. $32,400 +$ Rs. 3,600 = Rs. 36,000

Sub-Deputy Collectors—

Average pay per month for each Sub-Deputy Collectors is Rs. 279

Average pay per month for 39 Sub-Deputy Collectors is Rs. $279 \times 39 =$ Rs. 10,881.

Average pay per year for 39 Sub-Deputy Collectors is Rs. $10,881 \times 12 =$ Rs. 1,30,572.

Travelling allowance at Rs. 500 for each Sub-Deputy Collector for a year is Rs. $500 \times 39 =$ Rs. 19,500.

Hence total amount is Rs. $1,30,572 +$ Rs. 19,500 = Rs. 1,50,072

The total amount of which Government will be relieved consequent on the reduction of these above officers is Rs. $36,000 +$ Rs. 1,50,072 = Rs. 1,86,072 i. e., Rs. 1,86,000 (in round figures).

This sum may be devoted to the expansion of inspecting officers at District and Provincial Headquarters. If this is still found insufficient the extra cost may be met by a contribution from the savings shown in the Anchal budget.

Non-recurring expenditure

(I) SUB-TREASURIES

The old Province has been divided into 50 Anchals out of which 15 taluks (which have been proposed to be Anchal Headquarters) have got sub-treasuries.

So 35 sub-treasuries are to be constructed after the establishment of Anchal offices.

Present cost of construction for a sub-treasury (of size $16' \times 12'$) is about Rs. 6,000 (excluding the cost of construction of a room for treasury guard).

Rs. $6,000 \times 35 =$ Rs. 2,10,000 will be required for construction of these sub-treasuries.

(II) TALUK OFFICES

Out of 50 places, where it has been proposed to establish Anchal offices, 34 places have got the offices of the zamindars and taluk offices, which can be utilised as Anchal offices.

So 16 Anchal offices which will be of the type of present taluk office are to be constructed.

Present cost of construction for a taluk office and staff quarters is estimated to be about Rs. 84,200.

Hence to construct 16 Anchal offices the amount which will be required is $\text{Rs. } 84,200 \times 16 = \text{Rs. } 13,47,200$.



APPENDIX VI

Comparative statements of calculation of compensation according to Madras and Bihar Schemes and that of the Malikana according to the scheme recommended by the Committee

Calculation of malikana according to the scheme recommended by the Committee

	Gross Assets.	Amount of malikana.
	Rs.	Rs.
1. Permanently Settled Estates of Cuttack ..	11,76,896	1,21,763
2. Permanently Settled Estates of Puri ..	38,620	5,580
3. Permanently Settled Estates of Balasore ..	2,28,116	38,780
4. Permanently Settled Estates of Ganjam ..	19,40,861	1,82,170
5. Jeypore	15,73,789	1,00,329
6. Temporarily Settled Estates of North Orissa.	51,35,425	8,29,371
7. Temporarily Settled Estates of Sambalpur.	4,01,834	48,809
8. Revenue free Estates of North Orissa ..	7,56,982	3,21,718
9. Inam Estates of South Orissa ..	4,26,806	1,81,393
Total ..	1,16,79,329	18,29,913

Capitalised Value :

Rs. 18,29,913 × 25 =	Rs. 4,57,47,825	at 4 per cent interest
Rs. 18,29,913 × 33½ =	Rs. 6,09,97,100	at 3 per cent interest
Rs. 18,29,913 × 40 =	Rs. 7,31,96,520	at 2½ per cent interest

Calculation of Compensation according to Bihar Revised Scheme (for North Orissa) and Madras Revised Scheme (for South Orissa)

	Gross Assets	Compensation
	Rs.	Rs.
BIHAR REVISED SCHEME		
1. Permanently Settled Estates of Cuttack ..	11,76,896	29,73,530
2. Permanently Settled Estates of Puri ..	38,620	1,60,000
3. Permanently Settled Estates of Balasore ..	2,28,116	34,12,640
4. Temporarily Settled Estates of North Orissa	51,35,425	3,49,69,700
5. Temporarily Settled Estates of Sambalpur	4,01,834	13,79,276
6. Revenue-free Estates of North Orissa ..	7,56,982	1,32,56,660
MADRAS REVISED SCHEME		
7. Permanently Settled Estates of Ganjam ..	19,40,861	78,00,857
8. Jeypore	15,73,789	49,18,087
9. Inam Estates of South Orissa ..	4,26,806	1,19,07,870
Total ..	1,16,79,329	8,07,78,620

APPENDIX VII

Statements on reconstitution of districts and subdivisions in the whole of the Province as finally formed

1. Cuttack district

Area .. 3,108 sq. miles

Population .. 2,048,544

Serial No.	Name of subdivision	Name of Anchals	Police stations included	Area in sq. miles	Population
1	2	3	4	5	6
1	Sadr ..	1. Cuttack	1. Cuttack Sadr .. 2. Tangi 3. Charbatia	281	180,354
		2. Tirtol ..	1. Kissennagar .. 2. Tirtol 3. Ersama	451	248,060
		3. Jagatsingpur	1. Jagatsingpur .. 2. Gobindpur 3. Balikuda (which will include Marichpur zamin dary)	420	342,967
			Total ..	1,152	771,381
2	Kendrapara	1. Kendrapara ..	1. Kendrapara .. 2. Patkura 3. Mahakalpara	363	268,265
		2. Patamundai ..	1. Patamundai .. 2. Aul 3. Rajnagar	614	240,718
		3. Salepur	1. Salepur .. 2. Mahanga	243	219,684
			Total ..	1,220	728,667
	Jajpur ..	1. Jajpur ..	1. Jajpur .. 2. Binjharpur 3. Korai	410	336,353
		2. Dharmasala ..	1. Dharmasala .. 2. Barchana	326	212,143
			Total ..	736	548,496
			GRAND TOTAL ..	3,108	2,048,544

2. Puri district

Area .. 3,260 sq. miles

Population .. 1,425,197

Serial No.	Name of subdivision	Name of Anchals	Police station included	Area in sq. miles	Population
1	2	3	4	5	6
1	Sadr ..	1. Puri ..	1. Puri .. 2. Satyabadi .. 3. Brahmagiri ..	443	215,094
		2. Gop ..	1. Gop .. 2. Kakatapur .. 3. Nimapara ..	354	194,5 8
			Total ..	797	409,682
2	Bhubaneswar	1. Bhubaneswar	1. Bhubaneswar .. 2. Chandaka ..	168	63,905
		2. Pipli ..	1. Pipli .. 2. Baliana .. 3. Balipatna .. 4. Delang ..	260	198,0 5
			Total ..	428	261,920
3	Khurda ..	1. Khurda ..	1. Khurda .. 2. Jatni .. 3. Bolgarh .. 4. Begunia ..	436	217,454
		2. Banpur ..	1. Banpur .. 2. Tangi .. 3. Krishnaprasad ..	364	145,405
		3. Banki ..	1. Banki .. 2. Baideswar ..	198	90,620
			Total ..	998	453,479
4	Nayagarh..	1. Nayagarh ..	..	590	161,409
		2. Khandapara ..	..	244	87,341
		3. Ranpur ..	..	203	51,366
			Total ..	1,037	300,116
			GRAND TOTAL ..	3,260	1,425,197

3. Balasore district

Area .. 2,515 sq. miles

Population .. 1,239,603

Serial No.	Name of subdivision	Name of Anchals	Police-stations included	Area in sq. miles	Population	
1	2	3	4	5	6	
1	Sadr ..	1. Balasore ..	1. Balasore ..	511	189,818	
			2. Remuna ..			
			3. Nilgiri ..			
		2. Soro ..	1. Soro ..	402	205,711	
			2. Khaira ..			
			3. Simulia ..			
		3. Jaleswar ..	1. Jaleswar ..	526	312,544	
			2. Basta ..			
			3. Baliapal ..			
			4. Bhogra ..			
			5. Singla ..			
			Total ..			
2	Bhadrak ..	1. Bhadrak ..	1. Bhadrak ..	513	286,686	
			2. Tihidi ..			
			3. Bonth ..			
			4. Bhandaripokhari ..			
		2. Chandbali ..	1. Basudebpur ..	563	244,844	
			2. Chandbali ..			
			3. Dhamnagar ..			
			Total ..			
			GRAND TOTAL ..			
					1,439	708,073
	</					

4. Sambalpur district

Area .. 5,278 sq. miles

Population.. 1,020,825

Serial No.	Name of subdivision	Name of Anchals	Police-stations included	Area in sq. miles	Population
1	2	3	4	5	6
1	Sadr ..	1. Sambalpur ..	1. Sadr .. 2. Sasan .. 3. Jujumura - 4. Dhama 5. Katerbaga	823	195,249
		2. Jharsugra ..	1. Mura .. 2. Jharsugra 3. Brajarajnagar 4. Rampolla 5. Laikera 6. Mahadebpali	894	239,630
			Total ..	1,717	434,888
2	Bamra ..	1. Bamra 2. Kuchinda)	..	1,988	178,277
3	Bargarh ..	1. Bargarh ..	1. Bargarh .. 2. Attabira 3. Bheren 4. Bhatli 5. Ambabhona 6. Barpali 7. Sohela 8. Bijepur	737	226,829
		2. Padmapur ..	1. Padmapur .. 2. Paikmal 3. Jagadapur 4. Gaislat 5. Melchamunda	836	179,831
			Total ..	1,573	407,660
			GRAND TOTAL ..	5,278	1,020,825

5. Ganjam district

Area .. 3,626 sq. miles

Population.. 1,381,060

Serial No.	Name of subdivison	Name of Anchals	Police-stations included	Area in sq.miles	Population
1	2	3	4	5	6
1	Chatrapur..	1. Chatrapur ..	..	296	216,126
		2. Kodala ..	..	531	239,215
		Total ..	..	827	455,341
2	Berhampur	1. Berhampur..	..	481	277,870
		2. Digapahandi	..	456	132,126
		3. Parlakhemidi	..	400	97,778
		Total ..	..	1,337	507,774
3	Ghumusur	1. Ghumusur ..	..	821	205,872
		2. Aska ..	..	403	182,266
		3. Surada ..	..	238	29,807
		Total ..	..	1,462	417,945
		GRAND TOTAL ..	..	3,626	1,381,060

6. Jeypur district

Area .. 7,947 sq. miles

Population .. 841,048

Serial No.	Name of subdivision	Name of Anchals	Police-stations included	Area in sq. miles	Population
1	2	3	4	5	6
1	Sadr	1. Jeypur	1. Jeypur .. 2. Borigumma 3. Bhairabsingpur 4. Boipariguda 5. Kotpad 6. Kundra	1,139	238,934
		2. Malkangiri ..	1. Malkangiri .. 2. Mathli 3. Venkatapalam	2,396	89,617
			Total ..	3,535	328,551
2	Nawrangpur	1. Nawrangpur	1. Nawrangpur .. 2. Mydhalpur 3. Tentulikhunti 4. Kodinga	1,066	156,372
		2. Umerkote ..	1. Umerkote .. 2. Dabugan 3. Jharigan	1,374	108,438
			Total ..	2,440	264,810
3	Koraput ..	1. Koraput ..	1. Koraput .. 2. Laksmipur 3. Dasmanthpur 4. Narayanpatna	1,016	123,082
		2. Nandapur ..	1. Nandapur .. 2. Padwa 3. Pattangi 4. Semliguda	956	124,605
			Total ..	1,972	247,687
			GRAND TOTAL ..	7,947	841,048

7. Angul district

Area .. 4,168 sq. miles
Population .. 476,814

Serial No.	Name of subdivision	Name of Anchals	Police-stations included	Area in sq. miles	Population
1	2	3	4	5	6
1	Sadr ..	1. Angul ..	..	881	165,856
		2. Athmalik ..	..	730	72,765
		3. Rairakhol ..	..	833	38,185
		Total ..	2,444	276,806	
2	Baud ..	1. Baud ..	..	1,156	146,175
		2. Daspalla ..	..	568	53,833
		Total ..	1,724	200,008	
		GRAND TOTAL ..	4,168	476,814	

8. Balangir-Patna district

Area .. 4,967 sq. miles
Population .. 1,120,805

1	Sadr ..	}	..	..	2,530	632,220	
2	Titlagarh		..	..	948	248,873	
3	Sonepur ..	..	..	847	93,459		
4	Nawapara..	1. Nawapara	..	1. Nawapara	..	847	93,459
				2. Komna			
		2. Khariar	..	1. Khariar	..	642	146,253
				2. Sinapali			
				Total	..	1,489	239,712
				GRAND TOTAL	..	4,967	1,120,805

9. Dhenkanal district

Area .. 2,729 sq. miles

Population .. 656,826

Serial No.	Name of subdivision	Name of Anchals	Police-station included	Area in sq. miles	Population
1	2	3	5	5	6
1	Sadr ..	1. Dhenkanal } 2. } 3. Talcher ..	.. .. ..	1,463 399	324,212 86,432
		Total ..	..	1,862	410,644
		1. Narsingpur-Hindol	..	511	111,429
		2. Athgarh-Tigiria-Baramba.	..	356	134,753
2	Narsingpur	Total ..	..	867	246,182
		GRAND TOTAL ..	..	2,729	656,826

10. G. Udayagiri district

Area .. 3,511 sq. miles

Population .. 420,309

1	Sadr ..	1. G. Udaygiri..	..	504	91,715
		2. R. Udaygiri..	..	547	125,714
		Total ..	1,051	217,429	
2	Phulbani ..	1. Phulbani ..	..	800	86,779
		2. Baliguda ..	..	1,660	116,101
		Total ..	2,460	202,880	
GRAND TOTAL ..			3,511	420,309	

11. Sundergarh district

Area .. 3,788 sq. miles

Population .. 490,708

Serial No.	Name of subdivision	Name of Anchals	Police-station included	Area in sq. miles	Population
1	2	3	4	5	6
1	Sundergarh	..	..	2,492	398,171
2	Panposh ..			1,296	92,537
3	Bonai				
			Total ..	3,788	490,708

12. Kalahandi district

Area .. 5,942 sq. miles

Population.. 869,153

1	Bhawani-patna	..	..	3,559	597,940
2	Thuamul-Rampur				
3	Dharmagarh				
4	Rayagada..	1. Rayagada ..	1. Rayagada ..	620	99,295
		2. Gunupur ..	1. Gunupur .. 2. Gudari 3. Depiguda 4. Potasingi	983	109,980
		3. Bisamkatak..	1. Bisamkatak .. 2. Ambadola	780	61,938
Total ..				2,383	271,213
GRAND TOTAL ..				5,942	869,153

13. Keonjhar district

Area .. 3,925 sq. miles

Population .. 619,217

Serial No.	Name of subdivision	Name of Anchals	Police-station included	Area in sq.miles	Population
1	2	3	4	5	6
1	Sadr ..	1. Keonjhar.. } 2. Pal-Lahara	..	3,925	619,217
2	Champua..	1. Champua.. }			
3	Anandpur..	1. Anandpur 2. Sukinda .. }			

14. Mayurbhanj district

Area .. 4,034 sq. miles

Population .. 990,977

1	Baripada	4,034	990,977
2	Bamanghati				
3	Panchpir ..				
4	Kaptipada				

APPENDIX VIII

Draft Bill

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Orissa Village Improvement Schemes Act, 1947.

(2) It shall extend to the whole of the Province of Orissa

(3) It shall come into force in such area and on such date as the Provincial Government may, by notification in the official Gazette, direct.

2. In this Act, unless there is anything repugnant in the subject or context—

(1) " Board " means a Board constituted under section 3

(2) " Director of Agriculture " means the Director of Agriculture appointed by the Provincial Government under that designation and includes any other person specifically appointed as such for the purpose of this Act.

(3) " Executing Officer " means an officer appointed by the Board under sub-section (1) of section 12.

(4) " Inquiry Officer " means an officer appointed as such by the Board.

(5) " Owner " includes an owner in severalty, in common or joint, an occupant, a tenant and a mortgagee in possession.

(6) " Prescribed " means prescribed by rules made under this Act.

(7) " Provincial Village Improvement Officer " means an officer appointed as such by the Provincial Government.

(8) " Scheme " means a Village Improvement Scheme prepared under this Act.

CHAPTER II

Constitution of Board

3. (1) The Provincial Government shall constitute a Board consisting of the Revenue Commissioner, the Conservator of Forests, the Director of Agriculture, Director of Industries, Director of Veterinary Services, the Chief Engineer, Irrigation and Registrar of Co-operative Societies for the purposes of carrying out the provisions of this Act. A Provincial Village Improvement Officer shall be appointed by Government. He shall be the Secretary to the Board. He shall also be responsible for inspection and supervision of the execution of the schemes.

(2) If there is a difference of opinion among the members of the Board regarding any question under the provisions of this Act the decision of the majority of the members shall prevail.

Power of Board to direct preparation of village improvement scheme and matters for which scheme may be prepared

4. (1) the Board may direct the preparation of village improvement scheme for any area within the Province of Orissa. A scheme may make provision for any matter connected with improvement of land or of agriculture, or of the economic condition of the people, and specially for the following matters, viz.—

- (i) Improvement in agricultural practices by the use of (a) improved pedigree seeds, (b) improved implements of agriculture and (c) manures.

- (ii) Improvement of water supply and sources of irrigation
- (iii) Preservation and improvement of the soil and prevention of erosion
- (iv) Introduction of crop planning
- (v) Improvement in the methods of cultivation
- (vi) Introduction of methods of dry farming and mixed farming
- (vii) Introduction of co-operative marketing (and consolidation)
- (viii) Introduction of co-operative or collective farming
- (xi) Reclamation of waste lands or water logged land or of land from the sea.
- (x) Introduction of maintenance of drainage channels
- (xi) Control of grazing and improvement of ' gochar ' land
- (xii) Introduction of fruit and fuel tree plantations
- (xiii) Improvement of tanks and introduction of pisciculture
- (xiv) Regulation of prohibition of firing of vegetation
- (xv) Prevention of floods and saline inundation
- (xvi) Introduction of new cottage industries
- (xvii) Such other matters not inconsistent with the objects of this Act, as may be prescribed.

(2) On such direction being issued by the Board, the Board shall appoint an officer to prepare, in accordance with such instruction as it may issue, a draft scheme containing the following particulars, namely :—

- (i) the objects of the scheme ;
- (ii) the approximate area of the lands to be included in the scheme ;
- (iii) the work or kind of work to be carried out under the scheme ;
- (iv) the agency or agencies through which the work shall be carried out ;
- (v) the duration of the scheme ;
- (vi) such other particulars as may be prescribed ;

5. (1) The draft scheme prepared under section 4 shall be submitted to the Board which shall either approve the scheme with or without modifications or reject it. In case the scheme is approved it shall appoint an Inquiry Officer.

Publication of scheme and inviting objections.

(2) The scheme approved by the Board under sub-section (1) shall be published in the official Gazette and in the village and at the headquarters of the police-station and the district in which the land proposed to be included in the scheme are situate.

(3) The Board shall, on publication of the scheme, require all persons affected by the scheme, who wish to make any objections to the scheme or part thereof to submit their objections in writing to the Inquiry Officer or appear before him, within twenty-one days of the publication of the scheme in the official Gazette under sub-section (2).

Report of
Inquiry
Officer

6. (1) The Inquiry Officer shall hear such objections as are made to him in person, consider all objections duly submitted under section 5 and submit his report together with the objections to the Board.

(2) The Inquiry Officer may, while submitting his report under sub-section (1), recommend any modifications which in his opinion are required in any of the particulars contained in the scheme approved by the Board under sub-section (1) of section 5.

Power of
Board to
sanction
scheme with
or without
modifica-
tions

7. (1) After consideration of the objections and the report submitted under sub-section (1) of section 6 and of any further report which the Board may require the Inquiry Officer to submit the Board may sanction the scheme with or without modifications or reject it :

Provided that if not less than $33\frac{1}{3}$ per cent of the total number of the owners of the land included in the scheme other than the Crown, or owners other than the Crown owning in the aggregate not less than $33\frac{1}{3}$ per cent of the land included in the scheme, have made objection to the scheme or part thereof, the Board shall submit the scheme to the Provincial Government for its orders. The Provincial Government may thereupon sanction the scheme with or without modifications or reject it.

(2) The scheme as sanctioned under sub-section (1) shall be published in the official Gazette, and in the village and at the headquarters of the police-station and the district in which the lands included in the scheme are situate, and shall on such publication be final, subject to any modification ordered by the Board under the provision of section 12.

Effect of
the scheme

8. On the date on which the scheme is published in the official Gazette under sub-section (2) of section 7, it shall come into force and shall have effect as if it were enacted in this Act.

9. (1) The scheme will remain in force for a period of ten years. If the Board is satisfied that the scheme has been running successfully, it will publish a notice at the end of ten years in the manner prescribed in section 5 (2) of the Act, stating that it is proposed to continue the scheme for another period of ten years.

(2) Upon publication of this notice the provisions of sections 5(3), 6, 7 and 8 shall become applicable as if it were a new scheme.

10. If, after taking the objections into account, the Board or the Government decide to reject the scheme, the land will be restored to the original tenants in the same shape and size of holdings in which it was taken from them. A plan and a record-of-rights of the village as they stood on the day the scheme came into force, shall be prepared for this purpose at the commencement of the scheme.

11. (1) For the period of operation of a scheme, Government shall guarantee to the owners and cultivators a total income which will not be less than the average annual income of the holding multiplied by the number of years for which the scheme was in operation.

(2) For purposes of this section, the Board may appoint an officer to conduct an enquiry into the incomes of the owners of the holdings in the village.

(3) After consideration of the report of the officer appointed under section (2) and of any further report which the Board may require the Inquiry Officer to submit and of hearing persons whom the Board may call for giving evidence, the Board may approve the statement of income of the owners, with or without modifications.

(4) The approved statement of income shall be published in the official Gazette in the village, and at the headquarter of the police-station and of the district in which the land is situated.

(5) Any owners affected by the aforesaid statement may file an objection in writing to the Civil Court within a period of one month of the publication of the scheme in the official Gazette.

12. During the period of operation of a scheme, Government shall guarantee to the tenants the recovery of the cost of all investments required to be made by the tenants under the scheme. The cost of investment will be the first charge on the income in excess of the maximum guaranteed under section 11.

13. The Board shall have power to modify, suspend and stop any scheme sanctioned by it. Before ordering modification suspension or stoppage, the Board shall notify its intention in the official Gazette and copies of the Gazette notification shall be published at the village and at the headquarters of the police-stations and district where the lands under the schemes are situated. Any person concerned with the scheme may file an objection in writing within 21 days of the publication before the Board. The Board shall consider the objection and decide. The decision of the Board, which shall be final, shall be published in the official Gazette. On such publication the modification, suspension or stoppage shall take effect as under section 8 on and from the date of the original scheme sanctioned under section 7 and enacted in the Act :

Power of Board to modify, suspend and stop the scheme

Provided that orders of the Provincial Government shall be obtained by the Board for modification, suspension or stoppage of any scheme sanctioned by the Government under the proviso to section 7.

14. For the purpose of carrying out the objects of a scheme which has come into force under section 8, the Provincial Government or the Board may make regulations requiring any person or class of persons or the public generally to take certain action or to refrain from doing certain acts in respect of any matters supplementary and incidental to the scheme.

Power of Provincial Government or Board to make regulations

15. The Board shall certify due publication of notices and notifications and such certificate shall be conclusive evidence as regards due publication of such notices and notifications.

Certification of publication of notices and notifications

CHAPTER III

EXECUTION OF THE SCHEME

16. (1) After a scheme has come into force under section 8 the Board shall appoint an Executing Officer to execute it. He shall be responsible for the execution of the scheme and shall execute it, save as provided hereafter for schemes to be executed by the owner. The Executing Officer can take charge of any land for executing any scheme.

Power to enforce the scheme

(2) (a) Every owner of the land included in the scheme shall pay the costs or part-costs, as the case may be, of the works which under the scheme are carried out by the Crown in his land at the cost or part-cost of the owner.

(b) Provincial Government may in lieu of realisation of cost or part-cost assess and levy a cess as may be specified by Regulation for the benefits conferred under the scheme on the owner or owners of land in a village.

(3) If any owner of the land included in the scheme desires to carry out himself any works which under the scheme are to be carried out in his land by the Crown at the cost or part-cost of the owner, he shall give notice in writing to that effect undertaking to complete the work within the period prescribed by the Executing Officer to the Executing Officer within twenty-one days of the publication of the scheme in the official Gazette under section 7 or 9 or 12.

(4) On receipt of such notice, the Executing Officer shall inform the owner of the works which are to be carried out in his land, and shall fix the date before which the owner shall carry out the works.

(5) If such owner fails to carry out any work to the satisfaction of the Executing Officer before the date fixed by him or at any time expresses in writing to the Executing Officer his inability to do so, the Executing Officer may himself get the work carried out and the expenses incurred by the Executing Officer for the purpose shall be recovered from the owner (*from the income from land in easy instalments*).

(6) Where the owner of any land included in the scheme is the Crown, the Department of Government which has the control or management of such land, or the Executing Officer directed in this behalf by the Board or the Provincial Government as the case may be shall, carry out the works which the Crown is liable to carry out under the scheme.

Liability of persons whose lands are not included in the scheme to contribute

17. (1) If, in consequence of any work carried out under the scheme (any person including the Crown, other than the owner of the land in which the work is done) is likely to be benefited, he shall pay such amount to the owner of the land as contribution as the Board may determine.

(2) The amount shall be paid within such time as may be specified by the Board. On the failure of any person to pay the amount within the specified time, the Collector or any person authorised by him in that behalf shall recover it from him and shall pay the same to the owner of the land (*or funds of the scheme*).

18. Any person who contravenes or causes any contravention of, any of the provisions of a scheme which has come into force under section 8, or any of the regulations made under section 13 or does any act which causes damage to any of the works carried out under the scheme, or fails to fulfil any liability imposed upon him under section 15 or sub-section (4) of section 29 shall, on conviction, be punishable with fine which may extend to fifty rupees or with simple imprisonment for a period which may extend to one month or with both.

CHAPTER IV

MAINTENANCE, REPAIR AND USE OF WORKS CARRIED OUT UNDER THE SCHEME

19. (1) The Executing Officer shall prepare a statement giving ^{Statement} for any specified area all or some of the following particulars—as may be necessary :—

- (a) (i) the work done ;
- (ii) the cost thereof ;
- (iii) the total amount if any, to be recovered from the owners ;
- (iv) the general rate per acre or per rupee of assessment per annum at which such amount is to be recovered from the owners ;
- (v) the period within which such amount is to be recovered ;
- (vi) the persons or the class of persons liable to maintain and repair the work ;
- (vii) the amount of cess realisable from each owner and the instalments thereof ;

(b) If in the case of any survey number or subdivision of a survey number the owner is not liable to maintain or repair works therein, or if the cost is to be recovered from an owner at a rate other than the general rate, a list of such survey numbers or subdivisions, and the rate at which the cost is to be recovered from the owner of such survey numbers or subdivisions ;

(c) a map showing the work carried out in the village.

(2) The statement prepared by the Executing Officer shall be published in the official Gazette in the village and the headquarters of the police-station and of the district in which the land is situated.

(3) Any person affected by the aforesaid statement may file an objection before the Collector within one month of the publication of the statement.

(4) Any rights and liabilities shown in the statement as modified by the decisions of the Collector under section (3) shall be entered in the record-of-rights, if any, when such a record is prepared hereafter and in the village accounts if any in such manner as the Provincial Government may prescribe and shall thereupon form part of such record-of-rights and of the village accounts.

20. (1) Every person shown in the statement prepared under section 18 as liable to maintain and repair work shall, to the satisfaction of the Provincial Village Improvement Officer and within such time as the said officer may fix, maintain and repair the work in his own land and in any other land in respect of which he is shown as liable in the said statement. Obligation of persons to maintain and repair works

(2) If such person fails to maintain or repair the work within the time fixed by the Provincial Village Improvement Officer under sub-section (1), the Village Improvement Officer shall himself get the work maintained or repaired and the cost of so doing shall be recovered from the person.

(3) Every person shown in the statement prepared under section 18 as liable to pay cess shall pay such cess according to such instalments as may have been fixed in the statement.

CHAPTER V

MISCELLANEOUS

Amount to be recoverable as arrears of land revenue

21. All amounts due under sections 15, 16, 18, 19 and 30 shall be recoverable as arrears of land revenue.

Rights of entry

22. For the purpose of preparing, sanctioning or executing any scheme or repairing or maintaining any works under any scheme, any person authorised by the Board, the Collector or the Village Improvement Officer may, after giving such notice as may be prescribed, to the owner, occupier or other person interested in any land, enter upon, survey and mark out such land and do all acts necessary for such purpose.

Inquiries to be held summarily

23. (1) Any authority other than the Board empowered under this Act to make an inquiry shall make the inquiry in the manner provided for holding a summary inquiry under the Survey Act and all the provisions contained in the said Act relating to the holding of a summary inquiry shall, so far as may apply.

(2) Such authority as well as the Board shall have the same power for summoning and enforcing the attendance of any person and examining him on oath and compelling the production of documents as are vested in the revenue officers.

Permission to owners to increase rent on account of improvements effected

24. Notwithstanding anything contained in any other law for the time being in force it shall be lawful for the owner of any land included in a scheme to enhance the rent payable by a tenant of the land by such condition as may be prescribed.

Registration of document, plan or map in connection with land improvement scheme not required

25. (1) Nothing in the Indian Registration Act, 1908 shall be deemed to require the registration of any document, plan, or map prepared, made or sanctioned in connection with a scheme which has come into force.

(2) All such documents, plans and maps shall, for the purpose of sections 48 and 49 of the Indian Registration Act, 1908, be deemed to be registered in accordance with the provisions of that Act :

Provided that documents, plans and maps relating to the sanctioned scheme shall be accessible to the public in the manner prescribed.

26. Nothing provided in any enactment or rules or contract regulating the relationship between landlord and tenant shall prevent or hamper the execution of any scheme or shall entitle any landlord to sue any tenant for damages or eviction on account of any thing which he is required to do under any scheme.

27. Notwithstanding any provisions to the contrary in any Act, rules or contract—

(i) no attachment, sale or delivery of possession of any land included within any scheme can be effected except with the permission of the Executing Officer ;

- (ii) all attachment, sale and delivery of possession of lands included in a scheme shall be effected by a notice on the Executing Officer ; and
- (iii) no owner will be entitled to separate possession of any land included in any scheme except in accordance with the provisions of the scheme and permission of the Executing Officer.

28. The Collector shall be the *ex officio* Village Improvement Officer within his own jurisdiction.

29. The Collector or the Village Improvement Officer may delegate to any officer any of the power conferred on him by or under this Act.

Delegation of powers by Collector or Land Improvement Officer

30. The members and Secretary of the Board, the Inquiry Officer and any officer or person authorised or appointed by the Board, the Collector, the Village Improvement Officer or the Provincial Government under sub-section (2) of section 4, sub-section (1) of section 15, sub-section (2) of section 16, section 21, section 25 or sub-section (2) of section 29, as the case may be shall be deemed to be public servant within the meaning of the Indian Penal Code.

Certain Officers to be public servants

31. (1) No suit, prosecution or other legal proceedings shall be instituted against any public servant or person duly authorised under this Act in respect of anything in good faith done or intended to be done under this Act or the rules made thereunder.

Protection of persons acting in good faith and limitation of suits and prosecutions

(2) No suit or prosecution shall be instituted against any public servant or persons duly authorised under this Act in respect of anything done or intended to be done, under this Act, unless the suit or prosecution has been instituted within six months from the date of the act complained of.

32. (1) The Provincial Government may, by notification published in the official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made to determine the following matters, namely :—

- (i) the matters to be prescribed under clause (XVII) of sub-section (1) and clause (VI) of sub-section (2) of section 4 ;
- (ii) the matters to be prescribed under clause (d) of sub-section (1) of section 18 ;
- (iii) the manner in which the rights and liabilities shown in the statement prepared under section 18 shall be entered in the record-of-rights and village accounts ;
- (iv) the matter of giving notice under section 21 ;
- (v) the manner in which documents, plans and maps shall be made accessible to the public under section 24 ;
- (vi) the number of instalments payable under sub-section (2) of section 30.

(3) The rules made under this section shall be subject to the condition of previous publications.

Power of provincial Government to direct preparation of schemes in certain circumstances

33. (1) Notwithstanding anything contained in this Act, the Provincial Government may direct the preparation of a village improvement scheme providing for any of the matters specified in sub-section (1) of section 4 in any case in which the Provincial Government or any trust may contribute not less than 25 per cent of the cost of the scheme, or in any area in which the Provincial Government declares that a state of famine or scarcity prevails or in which in the opinion of the Provincial Government a state of famine or scarcity is likely to prevail or village improvement is necessary in the interests of any members of the scheduled castes or other backward people of the Province.

(2) On such direction the person appointed by the Provincial Government or the Board in this behalf shall prepare in accordance with such instructions as the Provincial Government or the Board may issue, a draft scheme containing the particulars specified in sub-section (2) of section 4 and submit it to the Provincial Government or the Board, as the case may be, for its approval.

(3) After the scheme is submitted to the Provincial Government or the Board for approval under sub-section (2) of the provisions of sections 5 to 24 and the rules made under section 28 shall, so far as they can be made applicable, apply in respect of such scheme.

(4) Notwithstanding anything contained in sub-section (3) the owner of the land in which any work has been carried out for the purpose of a scheme under this section shall be liable, pending the preparation of the statement under section 18 to maintain the work to the satisfaction of the Village Improvement Officer and repair it to his satisfaction within such time as he may fix.

The provisions of sub-section (2) of section 19 shall apply in respect of the owner's liability under this sub-section.

Provincial Government may carry out works in a scheme and subsequently recover cost from owners of lands

34. (1) Notwithstanding anything contained in this Act, the Provincial Government may, in the case of any scheme which has come into force under section 8, direct that the work under the scheme to be carried out by the owners of the lands shall be carried out by the Provincial Government and that the cost of such work shall be recovered from the owners of the lands included in the scheme in such proportion as the Provincial Government may fix having regard to the area or assessment or both of the lands included in the scheme.

(2) The cost directed to be recovered under sub-section (1), with interest at such rate as the Provincial Government may direct, shall be recoverable from the owners concerned in such number of instalments as may be prescribed or specified by regulation.

APPENDIX IX

Results of sample survey with details of the area and blocks surveyed

Statement 1

Size of holding in acres	Total area in acres	Percentage of total area to the grand total of col. 2	Total number of families	Percentage of total number of families to the grand total of col. 4
1	2	3	4	5
Not exceeding 1 acre ..	1,976.89	3.3	3,402	26.7
Exceeding 1 acre but not 2 acres ..	3,814.77	6.3	2,451	19.2
„ 2 acres but not 3 acres ..	4,420.58	7.3	1,635	12.9
„ 3 acres but not 4 acres ..	4,308.58	7.2	1,219	9.6
„ 4 acres but not 5 acres ..	3,630.51	6.0	795	6.2
„ 5 acres but not 6 acres ..	3,240.08	5.4	582	4.6
„ 6 acres but not 7 acres ..	2,766.01	4.6	423	3.4
„ 7 acres but not 8 acres ..	2,770.21	4.6	367	3.0
„ 8 acres but not 9 acres ..	2,134.45	3.5	249	2.0
„ 9 acres but not 10 acres ..	2,346.91	3.9	244	1.9
„ 10 acres but not 15 acres ..	7,453.61	12.4	601	4.8
„ 15 acres but not 20 acres ..	5,031.40	8.4	290	2.3
„ 20 acres but not 25 acres ..	3,137.31	5.2	142	1.2
„ 25 acres but not 30 acres ..	2,419.98	4.0	88	0.7
„ 30 acres but not 40 acres ..	2,992.13	5.0	88	0.7
„ 40 acres but not 50 acres ..	1,757.15	2.9	39	0.4
„ 50 acres but not 75 acres ..	1,417.54	2.4	24	0.2
„ 75 acres but not 100 acres ..	1,038.89	1.7	12	0.09
„ 100 acres but not 150 acres ..	970.13	1.6	8	0.06
Over 150 acres ..	2,603.25	4.3	7	0.05
GRAND TOTAL ..	60,230.38	100	12,786	100

Statement 2

Amount of rent paid by the tenants.	Total no. of families	Percentage of total families to the grand total of col. 2	Total area held (in acres)	Percentage of total area to the grand total of col. 4	Total rent paid (in rupees)	Percentage of total rent to the grant total of col. 6
1	2	3	4	5	6	7
Not exceeding Re. 1	2,226	17·6	3,342·46	5·6	1,527	1·3
Exceeding Re. 1 but not Rs. 2.	1,549	12·2	2,992·35	4·9	2,445	2·1
Exceeding Rs. 2 but not Rs. 3.	1,150	9·1	2,740·52	4·6	3,059	2·6
Exceeding Rs. 3 but not Rs. 4.	997	7·9	2,987·33	4·9	3,742	3·2
Exceeding Rs. 4 but not Rs. 5.	967	6·6	3,240·94	5·4	4,659	4·0
Exceeding Rs. 5 but not Rs. 7-8-0.	1,540	12·1	5,990·98	9·9	9,019	7·7
Exceeding Rs. 7-8-0 but not Rs. 10.	1,122	8·8	6,166·41	10·3	10,482	9·0
Exceeding Rs. 10 but not Rs. 12-8-0.	712	5·6	4,132·58	6·9	7,757	6·6
Exceeding Rs. 12-8-0 but not Rs. 15.	552	4·3	3,485·04	5·8	7,431	6·3
Exceeding Rs. 15 but not Rs. 20.	584	4·6	4,675·14	7·8	10,587	9·1
Exceeding Rs. 20 but not Rs. 25.	447	3·6	3,267·39	5·5	8,715	7·7
Exceeding Rs. 25 but not Rs. 35.	375	3·0	4,059·09	6·7	11,459	9·9
Exceeding Rs. 35 but not Rs. 45.	188	1·5	2,601·23	4·3	7,271	6·2
Exceeding Rs. 45 but not Rs. 55.	127	1·0	2,003·38	3·3	5,771	4·9
Exceeding Rs. 55 but not Rs. 65.	76	0·7	1,820·27	3·1	4,561	3·9
Exceeding Rs. 65 but not Rs. 75.	37	0·3	654·87	1·1	2,490	2·1
Exceeding Rs. 75 but not Rs. 85.	40	0·4	1,606·48	2·6	3,253	2·8
Exceeding Rs. 85 but not Rs. 95	10	0·08	273·78	0·4	903	0·8
Above Rs. 95 ..	67	0·62	4,190·16	6·9	11,420	9·8
Total ..	12,766	100	60,230·38	100	1,16,551	100

Statement 3

Serial No.	Name of the block with the name of the village in which the enquiry was made	Total number of families enquired into	Number of landless families	Percentage of col. 4 to col. 3
1	2	3	4	5
1	Cuttack-Kendrapara (Khandeita and adjoining villages.)	1,121	256	22.8
2	Cuttack-Kendrapara (Nunahara and adjoining villages).	1,062	430	40.4
3	Cuttack-Kendrapara (Kujang and adjoining villages).	565	71	12.5
4	Cuttack-Kendrapara (Madhusudanpur and adjoining villages).	1,048	264	25.1
5	Puri-Khurda (Gurjang and adjoining villages).	1,000	595	59.5
6	Puri-Khurda (Biranarasingpur and adjoining villages).	1,000	648	64.8
7	Puri-Khurda (Jagadapur and adjoining villages).	1,000	403	40.3
8	Puri-Khurda (Kakatpur and adjoining villages).	500	247	49.4
9	Jajpur-Bhadrak (Motto and adjoining villages in Chandbali police-station).	1,031	140	13.5
10	Jajpur-Bhadrak (Gelpur and adjoining villages).	1,034	220	21.2
11	Jajpur-Bhadrak (Neulpur and adjoining villages in Dharmasala police-station).	1,008	325	32.2
12	North Balasore (Nampo and adjoining villages).	1,013	121	11.9
13	Sambalpur-Bargarh (Parmanpur and adjoining villages).	1,032	422	40.8
14	Sambalpur-Bargarh (Some villages in Sohella police-station).	1,148	429	37.3
15	Padmapur-Kharar (Budhapalli and adjoining villages).	569	220	38.6
16	Padmapur-Kharar (Bhaera and adjoining villages).	511	206	40.3
17	Chatrapur-Ghumsur (Santoshpur and adjoining villages).	1,016	156	15.3

Serial No.	Name of the block with the name of the villages in which the enquiry was made	Total number of families enquired into	Number of landless families	Percentage of col. 4 to col. 3
1	2	3	4	5
18	Chatrapur-Ghumsur (Dhabalpur and adjoining villages.)	1,000	5	0.5
19	Ganjam Agency (Tikkabali and adjoining villages.)	500	205	41.0
20	Ganjam Agency (Nuagan and adjoining villages)	300	131	43.6
21	Ganjam Agency (Gumagarh and adjoining villages)	500	241	48.2
22	Angul (Jarpara and adjoining villages) ..	617	74	11.9
23	Koraput (Some villages in Koraput police-station.)	310	47	15.1
	Total ..	18,885	5,856	31.00
				(Percentage of grand total of col. 4 to the grand total of col. 3.)

Statement 4

- Percentage of total agricultural population .. 72.08
Average area per family of land-holding agriculturist .. 4.85 acres
Average area per head of land-holding agriculturist .. 1.00 acre.
Percentage of families of landless agricultural labourer .. 13.5
- Percentage of families living mainly as share cropper .. 3.5
Percentage of families living mainly as agricultural labourer.. 21.4
- Percentage of lands cultivated by family members .. 58.8
Percentage of lands cultivated by share croppers .. 15.6
Percentage of lands cultivated with the help of agricultural labourer 25.6
- Percentage of agricultural lands transferred from the hands of actual cultivators into those of non-agriculturist—during the last 15 years. 3.9